Notes

The All-Purpose Parts in the Queens Criminal Court: An Experiment in Trial Docket Administration*

In many jurisdictions throughout the country, the criminal justice system is sorely taxed. There are more judges to adjudicate criminal matters, yet backlogs mount and many defendants spend long periods of time in jail awaiting trial. Possible responses to this crisis in the criminal courts are many and varied. In terms of improving court administration, two general approaches are available: the resource inputs (judges, clerks, attorneys and courtrooms) can be increased, or the existing resources can be utilized more efficiently. This Note examines an experiment conducted in the Queens Criminal Court in New York City which took the latter approach and sought to remedy a substantial inefficiency in the administration of trial dockets.

The traditional docketing system used in the New York City Criminal Court was one of the many variants of what is generally referred to as the "master calendar" system.[1] The variety of master calendar

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1. The terms "master calendar" and "individual calendar," *see* p. 1638 *infra*, do not denote two clearly defined calendaring systems. Rather, they are generic terms describing two ends of a spectrum of procedures for administering the calendar of a court having more than one judge. At one extreme, all cases are placed on a master court calendar, each case is segmented into stages, and each stage is made the specialized responsibility of one or more judges. When a stage is completed, the case reverts to the master calendar and is reassigned to another judge for the next stage of processing. At the other extreme, a case is assigned at the outset to one judge for all purposes, each judge having an individual calendar of cases for which he is responsible from start to finish. Between these extremes are a number of variants: the process may be segmented into only two stages with one judge or set of judges responsible for preliminary matters and another judge or set of judges responsible for all stages thereafter. Or, the caseload may be divided by subject matter. Thus, a criminal court calendar might be segmented into narcotics cases, theft and burglary cases, violent crimes, and misdemeanors, with individual judges handling all phases of a particular type of case. Under another variation, long and difficult cases

used in New York until 1969 involved segmentation of cases, both by subject matter and by stage. The court unit which handled each segment was known as a "part." The New York system reassigned judges among the parts in a rapid rotation, each judge shifting assignments every few weeks. With each shift, a judge occupied a different courtroom, handled a different stage or type of criminal litigation, and dealt with a different staff of prosecutors and Legal Aid Society attorneys.[2] This constant rotation prevented the lawyers and judges at various stages of the process from becoming familiar with individual cases in advance. At each new appearance, it was necessary to educate the participants as to the facts of the case and the issues previously decided. Many appearances resulted simply in an adjournment, with no substantive action taken.

In an attempt to ensure swifter and fairer processing of cases, a revised calendar system was initiated on an experimental basis in the Queens Criminal Court in late 1969. This system, labeled "all-purpose parts," is a form of the "individual calendar" procedure and resembles that recently adopted in many federal districts.[3] As part of this experiment, each judge remained in one courtroom continuously. Cases were divided into essentially two segments: proceedings through arraignment and proceedings after arraignment. All segmentation by subject matter was eliminated, except for the broad division between adult and youth cases. Each case was assigned to one judge for all proceedings following arraignment. A team of Legal Aid attorneys was assigned to each judge's courtroom, so that judges and defendants would be assured

are assigned to one judge for all purposes while all other cases are placed on a master calendar and divided among the remaining judges. For purposes of this Note, the term "master calendar" will be used to denote a system in which there is a large degree of segmentation between stages, but little or no segmentation by subject matter, while "individual calendar" will refer to a system in which each case is assigned from the outset to an individual judge who retains the case for all purposes through disposition. It should be noted, however, that no multi-judge system is entirely a master or individual calendar system. Even in extreme master calendar systems, voir dire, trial motions, and post-trial motions are not handled separately from the trial itself, which is presided over by a single judge. And even in the most individualized calendar systems, all cases are filed in a centralized office of the court. Interview with Professor Geoffrey Hazard, Yale Law School, October 18, 1971.

2. More than 60 per cent of defendants in the New York City Criminal Court are represented by the Legal Aid Society at all their court appearances. An even greater proportion, on the order of 75 per cent, is represented by Legal Aid at arraignment, because many defendants do not have time to retain private counsel before they are arraigned. Interview with Carol Gerstl, Consultant, Bureau of the Budget, in New York City, June 11, 1971.

3. Interview with Justice Tom Clark in New Haven, December 12, 1970; N.Y.C. Bar Ass'n, Report on the Experimental Individual Calendar Control Program in the United States District Court for the Southern District of New York, June 1, 1971 (on file with the *Yale Law Journal*). *See* note 1 *supra*.

continuity of informed counsel. This Note will examine the operation of the all-purpose parts system in the Queens Criminal Court, compare it with the system in operation one year earlier, and analyze the implications of the new system for improved court administration.

I. Background: Dimensions of the Problem

A. *Jurisdiction of the Criminal Court*

The Criminal Court of the City of New York has initial jurisdiction over all criminal offenses occurring within New York City.[4] It hears and finally adjudicates all criminal charges below the rank of felony and conducts arraignments and preliminary hearings on felony charges.[5] Cases commenced as felonies may reach final disposition in the Criminal Court if the prosecution is dismissed, a guilty plea entered, or the charge reduced to a misdemeanor or violation before the case is transferred to the State Supreme Court, New York's court of general jurisdiction.[6] Felonies that have passed through the preliminary hearing stage are finally adjudicated in the Supreme Court. In these respects, the Criminal Court's jurisdiction corresponds substantially to that of the criminal tribunals of first instance in several other states.[7]

All persons arrested on criminal charges in New York City are arraigned before a Criminal Court judge. At arraignment, the defendant is informed of the charges against him (though he is not required to enter a plea), and bail conditions are set. In all felony and misdemeanor cases, a preliminary hearing[8] is scheduled after arraignment, unless the defendant waives the hearing.[9] In addition to the arraignment and the preliminary hearing, there may be hearings to consider

4. N.Y.C. CRIM. CT. ACT § 31 (McKinney 1963). The court was established pursuant to this Act, which became effective on September 1, 1962.

5. *Id*; N.Y. CRIM. PROC. LAW §§ 180.10, 180.40, 180.50, 180.60 (McKinney 1970).

6. N.Y.C. CRIM. CT. ACT § 33(8) (McKinney 1963). The New York Penal Law categorizes criminal offenses as felonies, misdemeanors, or violations. Felonies are all crimes punishable by imprisonment for more than one year. Misdemeanors are subdivided into two classes: Class A misdemeanors, which carry a maximum sentence of one year, and Class B misdemeanors, which carry a maximum sentence of 90 days. Violations, such as disorderly conduct, loitering, public intoxication, prostitution, and third-degree criminal trespass, are offenses punishable by imprisonment of up to 15 days. N.Y. PENAL LAW §§ 55.05, 70.00, 70.15 (McKinney 1967).

7. *See, e.g.*, CAL. PENAL CODE §§ 1425, 1462 (West 1970); CONN. GEN. STAT. REV. § 54-1a (1968); ILL. REV. STAT. §§ 37-621, 622, 624 (1965).

8. A preliminary hearing is held to determine whether there is probable cause to believe that a crime has been committed and that the defendant committed the crime. N.Y. CRIM. PROC. LAW §§ 170.75, 180.10 (McKinney 1970); N.Y.C. CRIM. CT. ACT § 33(7) (McKinney 1963).

9. N.Y. CRIM. PROC. LAW §§ 170.75, 180.10(2), 180.30 (McKinney 1970); N.Y.C. CRIM. CT. ACT § 40 (McKinney 1963).

pre-trial motions, such as motions to suppress evidence. Misdemeanor and violation cases which are not terminated by dismissal or guilty plea are then scheduled for trial in the Criminal Court. Normally, the trial is before a single judge, although the defendant, until recently, had a right to trial before a three-judge panel.[10] Since June 1970, defendants charged with a Class A misdemeanor (for which the maximum penalty is one year)[11] have been afforded a right to trial by jury.[12] Felony cases that are not disposed of in the Criminal Court by dismissal, plea, or reduction of charge are transferred to the Supreme Court for grand jury indictment and trial.[13]

B. *The Traditional System of Organization*

There are five branches of the New York City Criminal Court, one in each borough. Each branch has jurisdiction over crimes committed within its borough[14] and operates independently of the other branches in administering its caseload.

Under the traditional mode of court organization, each branch was divided into "parts"—courtrooms handling essentially one stage of the criminal litigation process. Although no two branches were exactly alike, the structure in the Queens Criminal Court was fairly typical. There were nine parts: 1A, 1B, 2A, 2A(1), 2B(1), 2B(3), 3, 3-1, and 3-2. The assigned tasks of these parts were as follows:

Part 1A: Arraignments and calendaring of subsequent appearances for cases involving felonies and "printable" misdemeanors;[15]

10. N.Y.C. CRIM. CT. ACT § 40 (McKinney 1963); N.Y. CRIM. PROC. LAW § 340.40(3) (McKinney 1970). The right to a three-judge trial was abolished, effective September 1, 1971. An Act to Amend the Criminal Procedure Law, ch. 815, N.Y. Laws of 1971.

11. *See* note 6 *supra*.

12. The jury option for Class A misdemeanors is a result of Baldwin v. New York, 399 U.S. 66 (1970), which held that a defendant in a criminal case has a constitutional right to a jury trial if, upon conviction, he faces a maximum penalty of more than six months' imprisonment. For a discussion of the effects of the *Baldwin* decision upon the New York City Criminal Court, *see* Note, *Jury Trials for Misdemeanants in New York City: The Effects of Baldwin*, 7 COL. J. LAW & SOC. PROBS. 173 (1971).

13. Occasionally, an indictment in a felony case is handed down in the Supreme Court before proceedings in the Criminal Court are completed. This can happen, for example, if, in the course of an ongoing grand jury investigation, it appears that a person already detained was involved in an offense under consideration. Such cases are transferred directly to the Supreme Court after indictment. On the other hand, cases are occasionally returned to the Criminal Court after transfer to the Supreme Court, if the grand jury refuses either to indict as a felony or to dismiss the charge and directs that the case be prosecuted as a misdemeanor in the Criminal Court. N.Y. CRIM. PROC. LAW §§ 190.65, 190.70, 190.75 (McKinney 1970). For a comparison with the Chicago criminal court system, *see* Banfield & Anderson, *Continuances in the Cook County Criminal Courts*, 35 U. CHI. L. REV. 259, 274-75 (1968).

14. N.Y. CRIM. PROC. LAW § 20.40 (McKinney, 1970).

15. Under the New York Code of Criminal Procedure, which was superseded on

Part 1B:	Arraignments and calendaring of subsequent appearances for cases involving "nonprintable" misdemeanors and violations;
Part 2A:	Preliminary hearings, pre-trial motions, and one-judge trials, calendared on a day-to-day basis in Parts 1A and 1B;
Part 2A(1):	Preliminary hearings, pre-trial motions, and one-judge trials, as a "backup" to Part 2A when the latter was overburdened;
Part 2B(1):	Calendaring of cases to be tried by a three-judge panel;
Part 2B(3):	Trials before a three-judge panel;
Part 3 complex (Parts 3, 3-1 and 3-2):	All proceedings involving youths and their co-defendants.[16]

The case flow among these numerous parts is portrayed, in a somewhat simplified form, in the diagram presented on the next page.[17] In fact, the case flow was even more complicated than the diagram indicates, since there was a considerable backflow of cases among the parts. Part 2A, which handled most preliminary hearings, pre-trial motions, and one-judge trials, did not have its own calendar. It received its cases on a daily basis from Parts 1A and 1B, where it was determined whether a case was ready to proceed. If a case was not disposed of at the appearance in 2A, it was sent back to 1A or 1B, where a subsequent 2A appearance was scheduled. On most days, the judges in Parts 1A and 1B, after completing their daily load of arraignments and calendaring, would recall some cases previously assigned to 2A for preliminary hearings and would conduct those hearings in their own courtrooms.

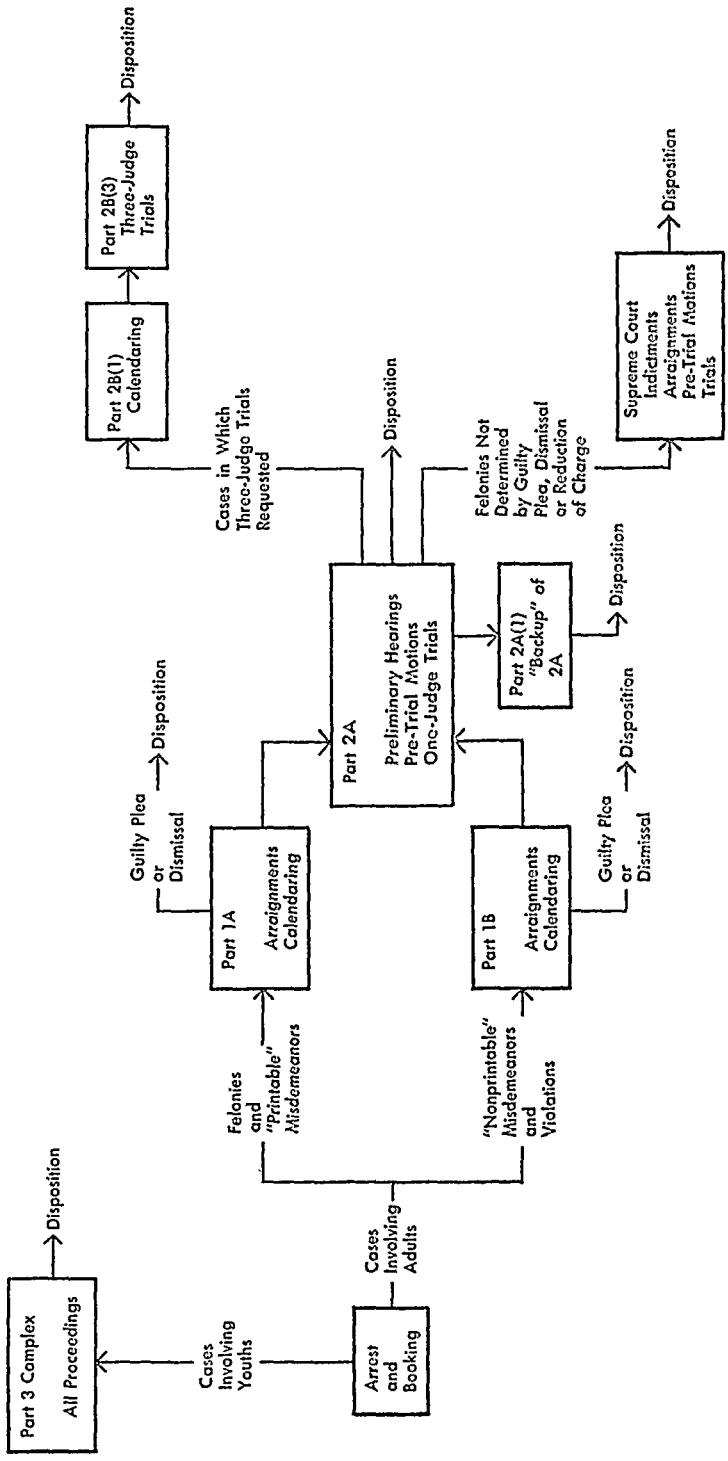
September 1, 1971 by the Criminal Procedure Law, fingerprinting was required of defendants charged with some misdemeanors. An Act to Amend the Code of Criminal Procedure, ch. 681, § 73, N.Y. Laws of 1967 (repealed 1970). All cases assigned to Part 1A were given docket numbers beginning with the letter *A*. In Part 1B, nonprintable misdemeanors had *B* docket numbers, while violations received X docket numbers.

All misdemeanors are now printable. N.Y. CRIM. PROC. LAW § 160.10 (McKinney 1970).

16. Youths are defendants aged 16 through 18. N.Y. CRIM. PROC. LAW § 720.05(1) (McKinney 1970). Defendants under the age of 16 are under the jurisdiction of the Family Court. N.Y. FAMILY CT. ACT § 712(a) (McKinney 1963).

17. It is worth noting that the complex structure outlined in the diagram existed in a court with only eleven judges, three of whom were in the Part 3 youth complex.

Some branches of the Criminal Court had greater specialization of functions than did Queens. In most of the other boroughs, there was a separate part for one-judge trials; the part equivalent to Queens Part 2A was restricted to preliminary hearings and motions. Some courts also used more extensive subject-matter as well as case-stage segmentation. The Manhattan Criminal Court, for example, contained separate parts for misdemeanors in which the defendant was in jail, non-jail misdemeanors, jail felonies, and non-jail felonies. Telephone conversation with Julian M. de la Rosa, Chief Clerk, Queens Criminal Court, October 7, 1971.


Part 3 Complex
All Proceedings
Disposition
Cases Involving Youths
Arrest and Booking
Cases Involving Adults
Felonies and "Printable" Misdemeanors
"Nonprintable" Misdemeanors and Violations
Part 1A
Arraignments Calendaring
Guilty Plea or Dismissal
Disposition
Part 1B
Arraignments Calendaring
Guilty Plea or Dismissal
Disposition
Part 2A
Preliminary Hearings
Pre-Trial Motions
Non-Judge Trials
Part 2A(1) "Backup" of 2A
Disposition
Cases in Which Three-Judge Trials Requested
Disposition
Felonies Not Determined by Guilty Plea, Dismissal or Reduction of Charge
Supreme Court
Indictments
Arraignments
Pre-Trial Motions
Trials
Disposition
Part 2B(1) Calendaring
Part 2B(3) Three-Judge Trials
Disposition

It is important to note that this system involved little structural segmentation of the litigation process. Part 2A handled almost all substantive appearances after arraignment unless a three-judge trial was held. Consequently, the court's organization differed from a "true" master calendar in that it did not exploit in any substantial way whatever efficiencies may inhere in functional specialization. At the same time, the court's organization before 1970 was not a true individual calendar system either. The essential feature of an individual calendar system is that, immediately after filing, each case is committed to one judge who is responsible for the case through disposition. This feature was lacking in the Queens Criminal Court, despite the functional breadth of Part 2A. In operation, each part was effectively a judicial work-station, rather than the office of an individual judge. The judges of the court were rotated through these work-stations every two weeks, and sometimes every week. Because of this unusually short period of assignment—other master calendar systems typically have periods of rotation ranging from three months to a year[18]—a defendant whose case was assigned to Part 2A for disposition might see one judge at his preliminary hearing, another at the time his pre-trial motions were argued, and yet another at trial. Similarly, prosecutors (Assistant District Attorneys) and Legal Aid attorneys were frequently rotated among the different parts, thereby depriving defendants of informed, continuous, and, possibly, concerned counsel.[19] Thus, the system of quick rotation created an *operational* fragmentation of the litigation process somewhat analogous to the *structural* segmentation of master calendar systems, without achieving the advantages of functional specialization.

18. Interview with Professor Geoffrey Hazard, Yale Law School, May 10, 1971.
A longer rotation period has several advantages: (1) the potential for increased efficiency inherent in a system of specialization can be realized; (2) working relations between specialized units can be established and regularized; (3) most delays attributable to judge-shopping can be avoided, since a case will remain with the same judge through many adjournments; and (4) the locus of strains within the system can be easily identified, work assignments changed, and remedial adjustments made. The short rotation period in New York City forfeited these benefits without providing any significant advantages of its own.

19. There was no fixed pattern of rotation of Legal Aid attorneys. Generally, there were two attorneys assigned to three-judge trials, two assigned to Part 1A, two to 1B, and none to Part 2A. When a case was scheduled for a post-arraignment appearance in Part 2A, an attorney from 1A or 1B would run into 2A to handle the appearance and then return to his scheduling part to receive another case. When more attorneys were available, one would be assigned to Part 2A. But even these assignments would rotate—as often as once a month—as a result of vacation schedules, Night Court assignments, illness, and turnover or transfer of Legal Aid Society personnel.
Whatever continuity of counsel resulted was more a matter of luck than of planning. Thus, even if it happened that the same attorney represented a defendant at more than one appearance, it was unlikely that he would be better prepared than any other lawyer, since he could in no way anticipate the coincidence of representing the same client twice. Interview with Caroline Davidson, Attorney-in-Charge, Queens Criminal Court, Legal Aid Society, October 7, 1971.

C. *Problems with the Traditional System and Proposals for Court Reorganization*

Under the traditional system of organization in the Criminal Court, there were long delays in bringing defendants to trial and a mounting backlog of pending cases. In 1969, nearly 200,000 arrest cases were arraigned in the entire New York City Criminal Court.[20] In Manhattan, as many as 50 defendants were arraigned in one hour and as many as 300 in a single day.[21] While the number of felony arrests in 1968 was 90 per cent greater than in 1959,[22] and the number of felony and misdemeanor arrests combined was 58 per cent greater,[23] the number of cases disposed of in 1968 was only 16 per cent greater than in 1959.[24] By the end of 1968, the backlog of pending cases had increased to a total of 520,000 criminal charges.[25] A 1969 study of the New York City Criminal Court[26] revealed that, in courtrooms devoted to trials, only 2¼ to 2½ hours of a judge's time each day were spent hearing and trying cases. Most of the time was spent on such administrative tasks as calendar calls or wasted through re-scheduling necessitated by the non-appearance of witnesses or defendants[27] or by requests for adjournment.

As the backlog accumulated, the number of cases on each court's daily calendar rose sharply. Scheduling problems increased since judges were forced to adjourn many cases simply because there was no time to hear them on the scheduled date. This in turn made calendar administration even more time-consuming.[28]

The dimensions of the crisis which engulfed the entire court system, including the State Supreme Court, are illustrated by the following facts relating to persons arrested in 1968: (1) of those detained

20. N.Y.C. Police Comm'r, Annual Report for 1969, at 34 (1970). The exact number of arrests was 199,746. The case unit used in this and other official reports appears to be the individual charge (docket number) and thus differs from that used in this study. *See* pp. 1651-52 and note 46 *infra*.

21. N.Y. Times, May 11, 1970, at 47, col. 1.

22. The number of felony arrests was 63,566 in 1968 compared with 33,381 in 1959. S. Clarke, Report to the Mayor's Criminal Justice Coordinating Council: The New York City Criminal Court: Case Flow and Congestion from 1959 to 1968, at 5, April 1970 (on file with the N.Y.C. Bureau of the Budget).

23. The combined total of felony and misdemeanor arrests was 114,864 in 1968 and 72,874 in 1959. *Id.* at A-7.

24. *Id.* at 2.

25. *Id.* 177,000 of these cases were categorized as "unable to locate" the defendant.

26. Roth, *Analysis of Operations of the 2A and 1B Complexes, Criminal Court of the City of New York* (Nov. 1969), reprinted as Appendix E in L. Goodchild, Planning Grant Report for Establishment of an Office of Administrative Case Control in the Criminal Court of the City of New York, Feb. 1, 1970 (on file with the N.Y.C. Bureau of the Budget).

27. If a defendant does not appear, a "bench warrant" for his arrest is usually issued by the judge.

28. S. Clarke, *supra* note 22, at 21.

in jail while awaiting trial, (a) 43 per cent were held for over one year, (b) about 50 per cent either had their cases dismissed, were acquitted, or were convicted and sentenced to time already served, and (c) 64 per cent spent no time in jail after their cases were disposed of; (2) six or more court appearances were required for disposition of nearly half of all cases; (3) 55 per cent of all arrests resulted in a dismissal or acquittal; and (4) only 2.6 per cent of arrested persons were sentenced to more than one year in jail.[29]

The only source of delay within the court system for misdemeanor and violation cases is in the Criminal Court. In felony cases, however, there are three possible sources of delay: (1) the Criminal Court proceedings; (2) if a disposition is not reached within the Criminal Court, the period between the conclusion of proceedings in the Criminal Court and arraignment on the grand jury indictment in the Supreme Court; and (3) the Supreme Court proceedings. Although in those felony cases processed through both the Criminal Court and the Supreme Court the greatest source of delay was in the third stage,[30] approximately three fifths of the felony cases sampled in this study were finally disposed of by dismissal or plea in the Criminal Court.[31] The Criminal Court was, therefore, an obvious place to begin attempts to reduce delays and speed the disposition of the great majority of criminal cases.[32]

29. Mayor J. Lindsay, Statement to the Administrative Board of the Judicial Conference of the State of New York, Press Release No. 568-70, at 4, Oct. 9, 1970. Although much of the delay in felony cases is attributable to the backlog of cases in the Supreme Court, *see* note 30 *infra*, most felony cases are disposed of before they reach the Supreme Court. *See* p. 1645 *infra*.

30. A Legal Aid Society study found that the longest delays took place in the third stage (within the Supreme Court) and the shortest occurred within the Criminal Court. Yet the average jail case remained in the Criminal Court for 3½ to 5 weeks. Brief for Legal Aid Society as Amicus Curiae at 16, United States *ex rel.* Frizer v. McMann, 437 F.2d 1309 (2d Cir. 1970), *rehearing en banc*, 437 F.2d 1312 (1971) [hereinafter cited as Legal Aid Society Brief].

31. *See* Appendix, Table 6, Section IIB. In this study, a "case" was defined to include all charges against a single defendant, and a case was considered "disposed of" when all action in the Criminal Court was completed on all charges. *See* pp. 1651-52 and note 46 *infra*.

32. Although the functions of the Criminal and Supreme Courts are usually considered to be distinct, there is reason to question this assumption. The common rationale for the division of labor between limited and general jurisdiction criminal courts is that it is more efficient to separate the processing of cases that demand only "routine" or "economy class" procedural treatment—violations, misdemeanors, and felony pleas—from the processing of those that require more elaborate treatment. Yet it is not entirely clear that this division furthers efficiency or quality of adjudication. First, the division does not seem to foster true specialization of tasks—lower court judges will set bail, hold preliminary hearings, decide motions to dismiss and suppress, and, in misdemeanor and violation cases, conduct trials. These functions are also performed by superior court judges in felony cases. Second, every system involving such a division is vulnerable to a "spread of inefficiency" from one unit to another—if one path becomes unclogged due to procedural changes, cases tend to come over from the clogged path and jam the free one up again. Interview with Professor Geoffrey Hazard, Yale Law School, May 10, 1971. Finally, it is

Confronted with increasing delays and congestion under the court's system of organization, the Legal Aid Society recommended to the Administrative Judge of the New York City Criminal Court in June 1969 that the entire court be reorganized into "all-purpose parts."[33] The distinguishing feature of the proposed reorganization was the assignment of cases following arraignment to one judge who would be responsible for his cases for all purposes through disposition. A judge and teams of Legal Aid attorneys and prosecutors would be assigned continuously to each all-purpose part. It was proposed that the Criminal Court in each borough consist of: (1) a centralized arraignment part, to perform arraignments in all cases (including youth cases) entering the court; (2) as many all-purpose parts as could be staffed; (3) a three-judge trial part; and (4) a separate all-purpose part for youth cases.[34] The Legal Aid Society argued that such a court reorganization would eliminate the diffusion of responsibility for case dispositions, the lack of continuity in prosecutorial and defense representation, and the confusion of witnesses shunted from courtroom to courtroom, which resulted under the then-existing system. The proposed system, it was claimed, would ensure continuity of judge, prosecutors, and defense counsel for each defendant after arraignment, and would enable each team of Legal Aid attorneys to work as a group and thereby represent clients more effectively.[35]

There are probably two reasons why the Legal Aid Society did not suggest a fully consolidated system in which the all-purpose parts would also handle arraignments. First, arraignments cannot be scheduled in advance; newly arrested persons must be arraigned continuously throughout the day. Including arraignments within the all-purpose parts would either interfere with the orderly hearing of previously scheduled cases or result in lengthy delays for newly arrested defen-

likely that the distribution of felony processing between two entirely separate courts creates inefficiencies in calendar administration and transmission of information among participants that contribute to delays in both courts. This study does not attempt to differentiate these inefficiencies from those arising from the internal organizational problems of the Criminal Court or to evaluate the effectiveness of this division of labor. However, insofar as this study indicates the advantages of an integrated court process, it suggests the need for re-examination and further study of the two-court system as well.

33. Legal Aid Society, Memorandum to Justice Dudley and Judge Massi on the Work of the Criminal Court, June 30, 1969, reprinted in Legal Aid Society Brief, *supra* note 30, at 23a-26a.

34. *Id.* at 24a. The Legal Aid Society also proposed that the daily calendar of cases assigned to any one judge be limited to reduce the amount of time devoted to "housekeeping tasks" such as calling the calendar. *Id.* at 25a.

35. *Id. See also* Legal Aid Society, Memorandum to Justice Dudley and Judge Massi on the All-Purpose Part in Criminal Court, Queens County, Dec. 10, 1969, reprinted in Legal Aid Society Brief, *supra* note 30, at 27a *et seq.*

dants. Second, one of the major judicial functions at arraignment is the setting of bail, which generally requires examination of the defendant's prior arrest record. Defendants and their attorneys generally prefer that judges who preside over later stages of the court proceedings not have access to or knowledge of the defendants' arrest records.

In response to the Legal Aid recommendation, one all-purpose part, 1C, was set up experimentally in the Queens Criminal Court on September 15, 1969.[36] The new part received its cases after arraignment and (occasionally) preliminary hearings had been conducted in Parts 1A and 1B.[37] Only Legal Aid cases were sent to 1C, since one of the experiment's purposes was to reduce the number of adjournments per case, and initially it was believed that private counsel were more prone to seek adjournments.[38]

On February 16, 1970, after three Legal Aid Society reports praising the work of all-purpose Part 1C,[39] the Queens Criminal Court shifted entirely to all-purpose parts operation. A new Part 1A was established to handle all arraignments, including youth cases. Three all-purpose parts, 1B, 1C, and 1D, were established, with 1C receiving private counsel as well as Legal Aid cases. Part 2B(3) was retained for three-judge trials, and the Part 3 complex continued to handle all youth cases, although only after arraignment. All cases except those involving youths were assigned among the all-purpose parts for all proceedings after arraignment, except for three-judge and jury trials.

Schematically, the flow of cases after the completion of the shift to all-purpose parts operation was as follows:[40]

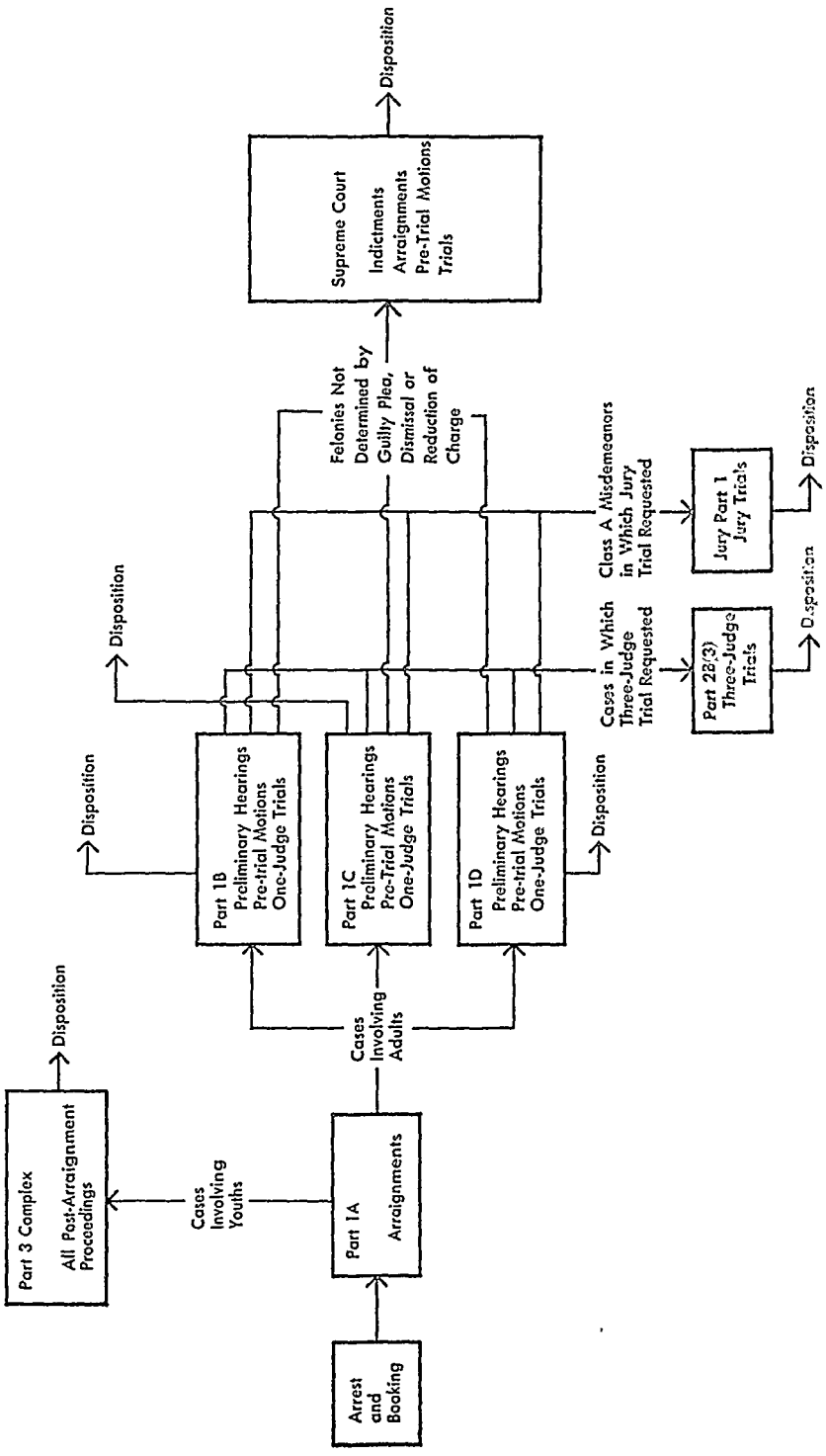
36. Judge William Booth presided over all-purpose Part 1C. On the same date, Part 2B(1), the calendar part for the three-judge trial complex, was abolished, leaving only 2B(3) to handle all aspects of three-judge trials.

37. Part 2A continued to receive the cases that were not assigned to 1C.

38. A common reason for adjournment is the client's failure to pay the attorney's fees. Because all cases in Part 1C were Legal Aid cases, more Legal Aid attorneys were required to staff this part than were later needed to staff the other all-purpose parts. *See* note 115 *infra*.

39. Legal Aid Society, Memoranda to Justice Dudley and Judge Massi on the All Purpose Part in Criminal Court, Queens County, Dec. 10, 1969, Jan. 8, 1970, and Feb. 11, 1970, reprinted in Legal Aid Society Brief, *supra* note 30, at 27a-38a. These reports presented Legal Aid Society statistics favorable to the new part. It was not at that time possible to adjust the data either for the qualities of the particular judge assigned to Part 1C or for the fact that 1C commenced operation with no retained backlog of pending cases, a factor that may have increased its effectiveness in disposing of cases since the judge could schedule the cases for any date, without concern for previously-scheduled continuance dates.

40. On June 1, 1970, an extra courtroom became available from the Civil Court. Part 1E was set up as a fourth all-purpose part to ease the caseload in the other parts. On July 16, 1970, however, in response to the United States Supreme Court ruling in the *Baldwin* case, *see* note 12 *supra*, Part 1E was replaced by Jury Part 1 for the new jury trials in


Arrest and Booking
Part 1A Arraignments
Cases Involving Youths
Part 3 Complex All Post-Arraignment Proceedings
Disposition
Cases Involving Adults
Part 1B Preliminary Hearings Pre-trial Motions One-Judge Trials
Part 1C Preliminary Hearings Pre-Trial Motions One-Judge Trials
Part 1D Preliminary Hearings Pre-trial Motions One-Judge Trials
Disposition
Disposition
Disposition
Cases in Which Three-Judge Trial Requested
Class A Misdemeanors in Which Jury Trial Requested
Part 28(3) Three-Judge Trials
Jury Part 1 Jury Trials
Disposition
Disposition
Felonies Not Determined by Guilty Plea, Dismissal or Reduction of Charge
Supreme Court Indictments Arraignments Pre-Trial Motions Trials
Disposition

It will be observed that this new structure is not very different from its predecessor. Like the old Part 2A, the new Parts 1B, 1C, and 1D handle all adult cases between arraignment and disposition, unless a three-judge or jury trial is requested. The Part 3 complex is assigned all youth cases as it was before, although the processing of youth cases is now somewhat segmented in that youth arraignments take place in Part 1A.

Scheduling is somewhat expedited in the new structure. The judge in Part 1A now has an adjournment book for each all-purpose part that lists the cases scheduled for that part each day. He can thus assign a case to the part that has the lightest schedule on the date set for the next court appearance. Occasionally, court clerks transfer cases among the all-purpose parts late in the day if some parts are overloaded while others have already finished their daily caseload.[41]

The judge in Part 1A, however, has duties beyond managing the calendar. His first responsibility is to set bail in all cases, a decision often influential in the subsequent progress and final outcome of a case. Moreover, he can often render final disposition of a case at arraignment. The importance of Part 1A is underscored by the fact that

Class A misdemeanor cases. Only one or two of the cases in this study's sample were transferred to Jury Part 1 for a jury trial, since the sample covered cases only through August 10, 1970, *see* note 45 *infra*, a mere three weeks after jury trials were instituted. When all-purpose Part 1E was eliminated, the Queens Criminal Court was faced with the choice of returning to higher daily caseloads per part or spreading the caseload out over a longer period, thereby increasing the average duration of adjournments in bail and parole cases. The former choice probably would have decreased the amount of time spent on each case, while the latter option promised to result in longer delays in the disposition of non-jail cases. Interviews with judges and court clerks, *see* note 97 *infra*, indicated that, at least in the short run, the latter alternative was chosen.

Early in 1971, the three-judge trial part was converted into a new all-purpose Part 1E for two days a week and used for three-judge trials only on the other three days. In the fall of 1971, three-judge trials were limited to Fridays only, with the courtroom available on all four other days for use as Part 1E. Three-judge trials were conducted by the 1E judge and two judges brought in from other boroughs expressly for that purpose. Three-judge trials could be limited to only one day per week, since many defendants who might previously have demanded such a trial now opted for trial by jury. Early in 1971, another all-purpose part, 1F, was established.

The all-purpose parts system was later extended to other boroughs, though with some variations in structure. In Manhattan, three all-purpose parts similar to those in Queens were established, as well as an experimental "master all-purpose part" system with one central calendaring part utilizing non-judicial personnel and four associated all-purpose courtrooms. In the Bronx, an all-purpose parts system similar to that in Queens was established, with some differences as a result of the number of available courtrooms and associated detention facilities for jailed defendants. In Brooklyn, there is at this time only one all-purpose part with a small back-up part, although the intention is to develop as many as ten all-purpose parts. Telephone conversation with Julian M. de la Rosa, Chief Clerk, Queens Criminal Court, October 7, 1971.

41. Checking on the progress of cases and redirecting their flow to attain optimal use of court facilities and personnel is an important aspect of court management. In some jurisdictions, this case shepherding is performed by the office of a designated presiding judge or an administrative judge.

approximately one fifth of the cases sampled was disposed of at arraignment, the majority by dismissal or withdrawal of the complaint.[42] In addition, the judge in Part 1A sometimes retains certain types of cases—narcotics cases other than sale, fugitive cases, and narcotics-related loitering cases—in Part 1A after arraignment. These cases are sent to an all-purpose part only if they survive motions to suppress or to dismiss on search-and-seizure grounds.

The most significant feature of the experiment relates to the assignment of participants within the new structure rather than to the structure itself. Instead of moving every few weeks, judges and Legal Aid attorneys now remain in the same part continuously.[43] In effect, then, the all-purpose parts experiment in Queens has simply halted the rotation of the participants from one work-station to another. The statistical comparisons afforded by this study are mainly a reflection of this change. They reveal little about the relative efficiencies of a functionally specialized master calendar system as compared to an individual calendar arrangement.[44]

II. Aims and Methodology

This study compares the operation of the all-purpose parts system in the Queens Criminal Court with the previous system of court organization in terms of both efficiency and fairness. An effort is made to answer the following questions: (1) Do the all-purpose parts serve to expedite the processing of cases by reducing the length of time and the number of appearances necessary to dispose of cases or by otherwise eliminating

42. *See* Appendix, Table 3. The high rate of dismissals at arraignment may be a result of prosecutorial reluctance to withdraw cases before arraignment. McIntyre & Lippman, *Prosecutors and Early Disposition of Felony Cases*, 56 A.B.A.J. 1154 (1970).

43. As of October 1971, all the all-purpose parts had had the same judge since their inception, except for Parts 1A and 1C, which had had the same judges for the last eight months. Telephone conversation with Julian M. de la Rosa, Chief Clerk, Queens Criminal Court, October 7, 1971. As of that month, one Legal Aid Society attorney each in Parts 1A, 1B and 1D, and all attorneys in the Part 3 complex had been in the same part for over a year. Also, the attorneys in Parts 1E and 1F had been there since their formation in early 1971. Another attorney who had been in Part 1B for a year was recently shifted to Part 1C. Telephone conversation with Caroline Davidson, Attorney-in-Charge, Queens Criminal Court, The Legal Aid Society, October 7, 1971.

44. Nothing in the structure or nature of the all-purpose parts system requires that the entire burden of calendar calls and adjournment decisions be placed upon judges. Indeed, the transfer of such administrative functions to non-judicial personnel might be a source of a further increase in efficiency than that revealed by this study. In Manhattan, *see* note 40 *supra*, such a transfer was made. There are two difficulties with this procedure. First, only judges are likely to effect compliance from the bar, and only judges can provide administrative guidance and exert pressure on other judges. Second, many adjournment decisions may affect the fairness of adjudication and impinge on the rights of either party. It is difficult to sort out such inherently judicial decisions from more routine administrative judgments.

waste or duplication of manpower or effort? (2) Even if cases are disposed of more efficiently, is this gain achieved at the expense of less thorough or less individualized adjudication which is unfair—or which appears to be unfair—to the parties? (3) What are the implications of the all-purpose parts in the Queens Criminal Court for other court systems?

To answer these questions, an extensive statistical comparison was made of the progress of cases through the Queens Criminal Court under the all-purpose parts and under the traditional system in operation a year earlier. Two types of samples were taken: a cross-sectional sample, which examined all non-youth case appearances, except those in three-judge or jury trials, for ten days chosen at random for each of the two years; and a case-flow sample, which examined all appearances, from arraignment through sentencing, of 500 cases each year chosen at random.[45] For purposes of this Note, the case unit is defined as the

45. The samples were obtained in mid-August 1970 from court records. Court calendars, adjournment books, docket books, when possible, and court papers, when necessary, were used to gather information about the sample cases. Adjournment books and daily calendars proved accurate when checked against court papers. The sources of information were ambiguous on rare occasions and educated guesses had to be made. It was felt best not to exclude such cases so as not to bias the results. The number of such cases was very small and seemed equally infrequent for the two years.

The period from March 1 to May 31 was used for both years because the all-purpose parts were in full operation during that period in 1970 and because most cases commenced during that period were likely to have been disposed of by August, when the court records were examined.

For the cross-sectional sample, ten days were randomly chosen from the period of Monday, March 2, 1970, to Friday, May 29, 1970. The days were selected so that there were two Mondays, two Tuesdays, etc. The corresponding dates from 1969 were also chosen (*e.g.*, Monday, May 5, 1969 corresponds to Monday, May 4, 1970) to control for any differences arising from the month, day of the week, or proximity to holidays. All non-youth court appearances except those in three-judge and jury trials were examined for the ten days in each year. Youth cases, three-judge and jury trials were not examined because they were not handled by the all-purpose parts.

For each appearance, information was obtained as to what action was taken—if the case was disposed of, whether it was a dismissal, plea of guilty, acquittal, conviction, or transfer to the State Supreme Court; if the case was adjourned, for what reason and after what action. All new arraignments were classified as either *A* (felonies and printable misdemeanors), *B* (other misdemeanors), or *X* (violations). *See* note 15 *supra*. The data obtained from the cross-sectional sample appear in Tables 1, 2, 3 and 6 in the Appendix.

For the case-flow sample, 500 non-youth cases arraigned in the period March 1-May 31 were chosen at random for each year. The proportion (and therefore the number) of *A*, *B* and *X* cases chosen was almost exactly the same for both years, to control for differences in the time it takes for disposition of different types of cases. The proportion used for each category equalled the average of that category's proportions of all charges in the two sample periods. For example, *A* docket numbers accounted for 39% of all docket numbers in 1969 and 46% in 1970. The proportion of *A* cases selected for each sample was therefore 42.5%. The actual number (and therefore proportion) of cases in each category varies somewhat from the desired number because of the manner of their selection. The cases were selected by docket number. When the record of the individual involved was obtained, it was occasionally discovered that he had been charged, on the same arrest, with a more serious offense as well. Since a case was classified, for purposes of this study, according to the most serious charge, *see* note 46 *infra*, such a case had to

individual defendant and all charges against him resulting from one arrest.[46]

be transferred to the more serious category, thereby impairing slightly the desired proportion in each category.

There was a "cutoff" date for each year beyond which cases were not followed. Corresponding dates in the two years (August 11, 1969 and August 10, 1970) were chosen to equalize the length of time allowed for disposition, which averaged 117 calendar days and ranged from 73 to 161 days in both years.

"Days" in the case-flow sample refers to calendar days, not court days. While court days might give a slightly more accurate measure of systemic efficiency in handling cases, it was felt that the more important measure was the number of days it takes a defendant to get his case disposed of; this figure is particularly important when those days are spent in jail.

For each of the cases in the case-flow sample, it was determined whether the case was disposed of, the number of case appearances required for disposition (or until the next scheduled appearance if the case was not disposed of by the cutoff date), the length of time from first to last appearance (arraignment to sentencing), the length of time from the first post-arraignment appearance (when the 1970 cases usually entered an all-purpose part) to sentencing, and the nature of the final disposition (if there was one). All appearances, including arraignment and sentencing, were counted in the case-flow sample. Same-day transfers between different parts of the Criminal Court were counted as one appearance. Although at the time the data were collected there was a statutory 48-hour waiting period between conviction (or a guilty plea) and sentence, An Act to Amend the Code of Criminal Procedure, ch. 360 § 1, N.Y. Laws of 1882 (repealed 1970), it was frequently waived by the defendant. Sometimes, however, there was an adjournment for "investigation and sentence," and this was counted as an additional appearance and time lapse. The new Criminal Procedure Law permits the judge, in his discretion, to sentence a defendant at the time of conviction if a pre-sentence or fingerprint report is either not required or, if required, is already received. N.Y. CRIM. PROC. LAW § 380.30 (McKinney 1970).

If, after conviction or acceptance of a plea of guilty but before sentence, a defendant jumped bail, his case was considered to be in "unexecuted bench warrant" status. The disposition (plea of guilty or conviction) that had been reached before the defendant jumped bail was, however, recorded for purposes of computing the composition of final dispositions. Approximately 10 per cent of the sample cases were in unexecuted bench warrant status as of the cutoff date. *See* Appendix, Table 4.

Figures in the case-flow sample for average numbers of appearances and days required for cases not disposed of include the next scheduled appearance (which is, necessarily, beyond the cutoff date). These figures reflect the minimum possible length of time for final disposition, unless a grand jury indictment intervened. *See* note 13 *supra*. Although this practice clearly underestimates the number of appearances such cases would actually have in the Criminal Court, *see* Appendix, Table 5, note b, it should not bias the comparative results, since the same assumption was used for both years. Indeed, since 1970 cases generally required fewer appearances, this assumption creates a greater underestimate for 1969, and therefore tends to minimize the actual difference between 1969 and 1970.

Figures for appearances and days required per case were computed for two groups of bail and parole cases—those disposed of by the cutoff date, and those not disposed of by that time. *See* Appendix, Table 5. In addition, another set of figures was compiled combining the disposed and undisposed cases, again using the assumption that the undisposed cases would be disposed of at their next scheduled appearance.

The data obtained from the case-flow sample appear in Tables 4 through 6 in the Appendix.

46. Official court compilations and the Legal Aid Society's statistics equate "case" with "docket number." The difficulty with this usage is that docket numbers are not accurate indicators of court activity. Generally, each charge against each defendant is given a docket number, although sometimes more than one charge per defendant is included under the same docket number. If docket numbers were used as the case unit in a 1969-70 comparison, then a change in the average number of charges on which defendants were arrested (and thus in the average number of docket numbers attached to each defendant) would affect the results of the study independent of any change attributable to all-purpose parts operation. Evidence of just such a change has been uncovered in this study. The total number of docket numbers rose 52 per cent over the sample period, from 4175

Most of the data obtained from these samples serve to answer the operational subquestions of the general efficiency question: (1) What was the ratio of dispositions to new arraignments? (2) How many dispositions were recorded per judge per day? (3) How many days and appearances were needed to dispose of a case? (4) What percentage of appearances resulted in case disposition? (5) What percentage of appearances were adjourned without other action? (6) How frequently were preliminary hearings held? (7) What percentage of the cases was disposed of within the sample period?

in 1969 to 6344 in 1970, *see* Appendix, Table 7, while the number of defendants arraigned during the ten days in the cross-sectional sample rose only 25 per cent, from 308 to 385, *id.*, Table 1. These figures are not strictly comparable, since the first statistic is derived from the docket totals for the *entire* three-month period and the second is derived from arraignment totals for only 10 of the 65 court days in that period. But since whatever disparities might exist between the cross-sectional sample caseload and the total caseload would have occurred in both years, these figures indicate that the average number of charges per defendant did increase. Equating "case" with docket number, therefore, would have made comparison of the effectiveness of the two systems impossible.

Another approach to defining a case unit would be to treat all co-defendants arrested on the same charge or all defendants arrested on related charges as one case, a definition used in an early study of all-purpose Part IC, S. Clarke, *supra* note 22. This definition is convenient, since co-defendants or related defendants often appear together in court. There are, however, major disadvantages with this definition of "case" as well. Some adjournments are caused solely by the fact that more than one defendant is involved in a case, as when time is needed for the assignment of a private attorney to represent the co-defendant of one represented by Legal Aid. N.Y. COUNTY LAW § 722 (McKinney Supp. 1970). More importantly, the dispositions of several defendants who proceed through the court together are often different. Often, charges against one are dismissed while another pleads guilty, or five are sentenced while the sixth has jumped bail and is in "unexecuted bench warrant" status. Therefore, use of this unit would not have permitted a meaningful evaluation of the patterns of final dispositions. To avoid the difficulties associated with these approaches and to insure meaningful comparisons of the two years, the definition noted in the text was chosen.

A case was classified as a felony, misdemeanor or violation according to the most serious charge filed at the time of the defendant's arrest. This classification was not changed in those cases in which the most serious charge was later dismissed or withdrawn. The term "felony" is used in this study as short-hand for "cases with *A* docket numbers," which in fact includes both felonies and "printable" misdemeanors. *See* note 15 *supra*.

A "jail case" is one in which the defendant or any of his co-defendants remains in jail for more than half the time the case is pending in the Criminal Court. Some studies classify as a "jail case" any case in which a defendant has spent some time in jail. Yet some defendants who are initially incarcerated are later able to post bond. Since cases in which the defendant is released on bail are normally adjourned for longer periods of time than those in which the defendant remains in jail, it would be misleading to denote a case in which the defendant has spent only a small amount of time in jail as a "jail case." For the purposes of this Note, the cases of all co-defendants were denoted "jail cases" when at least one co-defendant was in jail for the requisite time, since judges frequently tried to expedite all proceedings under such circumstances.

A "parole case" is one in which the defendant is released on his personal recognizance pending the disposition of his case. All data from the case-flow sample were calculated separately for jail cases on the one hand and bail and parole cases combined on the other.

A case was considered "disposed of" when all action in the Criminal Court was completed on all charges, even though action may have remained to be taken in another court. For the case-flow sample, the sentencing date was considered the date of disposition. For the cross-sectional sample, the date on which a final adjudication within the Criminal Court occurred—whether in the form of a guilty plea, acquittal, conviction, dismissal, or transfer to another court—was counted as the date of disposition. The nature of the disposition recorded for each case was the most adverse ruling rendered on any charge in the case.

The question of the all-purpose parts' fairness in operation is considerably more elusive. It would be beyond the scope of this Note to fully explore the concept of "fairness"; it would be even more difficult to apply such a concept to a concrete effort at court reform to determine whether it was "fair." Rather, this Note examines those components of efficiency which clearly relate to a common-sense notion of fairness, and briefly reports the opinions of those involved with the experiment as to whether, in their judgment, the experiment led to some relative increase in "unfairness."

III. Efficiency

In order to appreciate fully the impact of the new system, it is essential to understand the enormous growth of the court's workload during the period studied. There were marked increases in both new arraignments and total case appearances between 1969 and 1970. The number of adult defendants arraigned in the ten-day samples rose from 308 to 385, a 25 per cent increase.[47] Almost all of this increase is attributable to the increase in felony defendants from 82 to 152 (an 85 per cent rise).[48] Total case appearances rose even more rapidly than new arraignments, with 37 per cent more appearances in the all-purpose parts than in the old system a year earlier.[49] However, case appearances per judge per day, a very crude measure of workload, remained practically constant (50.8 in 1969 and 50.6 in 1970), because there were more judges sitting in 1970 than in 1969.[50]

47. *See* Appendix, Tables 1 and 3.

48. *Id.* While the number of felony cases rose by 85 per cent, the number of misdemeanor arraignments actually declined 6 per cent, and violation arraignments increased only 15 per cent. For a possible explanation of this concentration of the increase in arraignments among felonies, *see* note 53 *infra*.

49. There were 2084 case appearances during the ten days in 1970 and only 1524 in 1969. *See* Appendix, Tables 1 and 3.

50. There was an average of 4.12 judges per day conducting arraignments, hearings, motions, and one-judge trials in adult cases in 1970, compared with 3.0 in 1969. *See* Appendix, Tables 1 and 2. The per-judge-per-day statistics for each year were arrived at as follows: 2084 appearances ÷ 41.2 judge-days = 50.6 appearances per judge per day in 1970; 1524 ÷ 30.0 = 50.8 in 1969.

In order to compute the average number of judges sitting per day and thereby derive per-judge-per-day figures, *see* above and p. 1657 *infra*, it was necessary to count certain judges who did some work not relevant to the comparison of the study samples as "fractional" judges. The most significant case was the judge sitting in Part 1A in 1970 who arraigned youth as well as adult defendants. He was counted for purposes of this study as a fractional judge according to the proportion of non-youth arraignments he conducted each day. When, as occurred on a few particularly busy days, there were two judges in Part 1A, each was counted in proportion to the percentage of non-youth arraignments he handled. Overall, the average number of judges sitting in Part 1A each day in 1970, calculated in this manner, was 0.72. *See* Appendix, Table 2. Similar calculations were made when a judge was sitting in Part 3-2, a backup part to Part 3 that also handled

The fact that the percentage increase in total appearances was greater than that in new arraignments may be explained by the changing nature of the caseload. The proportion of new cases that were felonies increased from 27 per cent in 1969 to 39 per cent in 1970.[51] Since felonies frequently entail more complex legal issues and, because of the severe penalties attendant upon conviction, normally receive greater attention from attorneys, they usually involve more court appearances than do lesser crimes.[52] Thus, the dramatic increase in the proportion of felonies explains why total case appearances increased more rapidly than the size of the caseload itself.[53]

A. *Backlog Reduction*

One indication of the overall efficiency of a court system is its ability to reduce a pre-existing backlog of cases and to avoid creating a new one. A court system will accumulate a backlog if the number of new arraignments (intake) exceeds the number of dispositions (output). Conversely, it will reduce its backlog if dispositions exceed arraignments. A *backlog-reduction index* may be defined as the number of dispositions divided by the number of new arraignments, expressed as a percentage. The change in the backlog-reduction index under the all-purpose parts system is a significant measure of its relative efficiency.

some non-youth cases. It was necessary to count this judge even though he was not an integral part of the adult all-purpose parts system, since he disposed of adult cases that would otherwise not have been disposed of on those dates. A Part 3-2 judge handled non-youth cases on eight of the ten days in the 1970 cross-sectional sample. Weighted according to the proportion of non-youth cases, there was an average of 0.40 judge per day sitting in that backup part.

These calculations result in a conservative figure for 1970 per-judge statistics because judges with mixed caseloads were counted as sitting judges according to the *proportion* rather than the actual *number* of non-youth cases they handled in a day. Thus, on two of the eight days in which a 3-2 judge handled non-youth cases, he was counted for computational purposes as a full judge, even though on one of those days he handled only one case (which happened to be a non-youth case). The per-judge figures for 1970 are a cautious underestimate of the actual productivity of the all-purpose parts system and, therefore, probably understate the actual change in per-judge results between the two years.

51. *See* Appendix, Table 3. While the total number of arraignments increased by 77 from 1969 to 1970, the number of felony arraignments rose by 70. *Id.*

52. For bail and parole cases in the case-flow sample, felony cases required an average of 1.2 more appearances than did misdemeanor or violation cases. *See* Appendix, Table 5D. There are no comparable figures for jail cases, since practically no misdemeanor or violation cases were jail cases.

53. The increase in the seriousness of charges placed against a defendant may be explained in at least three ways. First, police or prosecutors, interested in obtaining more guilty pleas, may have "overcharged" defendants by adding a felony charge, in the hope that defendants would then agree to plead guilty to one or two lesser offenses in exchange for a dismissal of the felony count. Second, police may have placed greater emphasis in 1970 on making arrests for serious crimes. Finally, the increase may have simply reflected a rise in the seriousness of crimes committed, reported, or detected. None of the information obtained in this study offers a basis for concluding which, if any, of these explanations is correct.

The all-purpose parts performed substantially better than the traditional system in reducing backlog. Assuming that the average weekly number of night and weekend arraignments equals approximately two-thirds of the average number of weekday arraignments,[54] the data indicate that in 1969, under the traditional court organization, the number of cases disposed of amounted to 82 per cent of the number of arraignments, while, under the all-purpose parts in 1970, dispositions equaled 106 per cent of arraignments.[55] Five per cent of the dispositions recorded under the all-purpose parts were dispositions that cut into the backlog.[56] On a per-judge basis, while three cases per judge per day were added to the backlog in 1969, each judge in 1970 disposed of 0.9 case per day from the backlog.[57] Thus, while the traditional system could not dispose of its own intake and gradually accumulated a backlog, the all-purpose parts system not only disposed of its entire intake (which was 25 per cent larger than the old system's)[58] but was able to reduce the pre-existing backlog.[59]

54. Calculating a backlog-reduction index requires comparison of total dispositions and total arraignments over a comparable time period. Cases were arraigned and disposed of in the Queens Criminal Court on only five days each week during the sample periods, although Queens defendants were arraigned on seven days each week. (Weekend and night arraignments took place in Brooklyn.) The number of arraignments recorded in Queens during the sample periods thus represents only daytime arraignments for ten out of the fourteen days, since only data regarding weekday arraignments in the Queens Criminal Court were available for 1969 and 1970. In adjusting the arraignment totals, the author relied on the data for September 1971 which were available. Of the 2933 docket numbers for Queens defendants arraigned in that month, 1768 were handled in Queens during weekdays and 1165 (or 65.9 per cent more) in Brooklyn at night or on weekends. Of those arraigned in Brooklyn, only about 10 per cent were disposed of at arraignment. Telephone conversation with Julian M. de la Rosa, Chief Clerk, Queens Criminal Court, October 7, 1971. Applying these proportions to the data obtained in this study, the estimated number of defendants arraigned during a two-week period is 511 for 1969 (*see* Appendix, Tables 1 and 3—308 increased by 65.9 per cent, or 203) and 639 for 1970 (385 increased by 65.9 per cent, or 254), and the estimated number of dispositions is 420 in 1969 (400 increased by 10 per cent of 203), and 676 in 1970 (651 increased by 10 per cent of 254). Although the proportion of weekend and night arraignments in 1969 and 1970 may have varied somewhat from that in 1971, any such variations would probably not affect significantly the *comparative* results regarding the backlog-reduction indices of the two systems of court organization. Similarly, the adjustment in disposition figures necessary to insure comparison of *total* dispositions to total arraignments does not alter the comparison of the output of the two Queens systems, since the same proportion of extra arraignments was deemed to have been disposed of in Brooklyn in both years.

55. There were an estimated 420 dispositions and 511 arraignments during 1969, *see note* 54 *supra*. $420 \div 511 = 82$ per cent. For 1970, there were an estimated 676 cases disposed of and 639 cases arraigned. $676 \div 639 = 106$ per cent.

56. The excess of dispositions over arraignments, amounting to 37 dispositions (676 minus 639) represents dispositions from the backlog. The accuracy of this figure depends, of course, upon the prior assumption regarding weekend arraignments, *see* note 54 *supra*.

57. In 1969, there were 91 fewer dispositions than arraignments, while in 1970, dispositions exceeded arraignments by 37. *See* notes 55 & 56 *supra*. There were 30 judge-days during the ten-day period in 1969 and 41.2 in 1970 (*see* note 50 *supra*, and Appendix, Table 3). Therefore, in 1969, $91/30.0 = 3.0$ cases per judge per day were added to the backlog, while in 1970, $37/41.2 = 0.9$ case per judge per day was disposed of from the backlog.

58. *See* p. 1654 *supra*.

59. On January 1, 1970, there were 9100 docket numbers pending in the Queens Criminal Court. By January 1, 1971, the backlog had dropped to 8400, and by October

B. *Dispositions Per Judge Per Day*

A related and probably superior index of a court system's productivity is the number of dispositions recorded per judge per day.[60] By this measure, the all-purpose parts performed notably better than the traditional system. There were 15.8 dispositions recorded in 1970 per judge per day as compared with 13.3 in 1969, an increase of 19 per cent.[61] This large increase in dispositions per judge per day is particularly impressive in light of the fact that the proportion of felonies increased drastically between the two years[62] and felony cases require an average of approximately one more appearance per case than less serious crimes.[63]

C. *Number of Appearances and Days Required for Case Disposition*

Although the overall disposition statistics provide a useful, quick indication of the new system's relative effectiveness, they do not indicate the source of the new-found efficiencies. For that purpose, it is necessary to examine the progress of cases up to disposition. The first relevant measure is the average number of appearances and days required for disposition of a case. Because all participants and observers were particularly concerned about the treatment of jail cases,[64] figures for those cases were computed separately from the figures for bail and parole cases[65] combined.

1. *Jail Cases*

The most striking achievement of the all-purpose parts system between 1969 and 1970 was a drastic reduction in the length of time required to dispose of the cases of defendants detained in jail. The number of days required for disposition of jail cases declined 63 per cent, from 30.5 days to 11.4.[66] The time required after the first post-arraignment

1, 1971, the backlog had fallen to 4700 docket numbers. Telephone conversation with Julian M. de La Rosa, Chief Clerk, Queens Criminal Court, October 7, 1971.

60. The number of dispositions per judge per day is perhaps the most accurate measure of productivity because it relates the output of a court system (dispositions) directly to the labor input (the number of judge-days). This statistic, however, ignores considerations of the fairness or quality of the adjudicatory process. The number of dispositions per judge per day could increase simply through a reduction in the amount of time judges spent deliberating upon each appearance. Other figures, however, indicate that the increase is due instead to a reduction in non-dispository appearances. *See* pp. 1658-61 *infra*.

61. *See* Appendix, Table 2 and note 50 *supra*.

62. *See* Appendix, Table 3 and p. 1655 *supra*.

63. *See* Appendix, Table 5 and note 52 *supra*.

64. For the definition of a "jail case," see note 46 *supra*.

65. For the definition of a "parole" case, see note 46 *supra*.

66. *See* Appendix, Table 5A. The figures regarding the length of time and number

appearance (when cases usually entered an all-purpose part)[67] declined by nearly two-thirds (66 percent), from 21.8 days to 7.5.[68] Moreover, the average number of appearances[69] required per case declined by one-fifth (from 3.95 to 3.19), and the average number of days between appearances was cut in half (from 10.4 to 5.2).[70]

A difference of 63 per cent, or 19 days, in the average length of time defendants spend in jail is significant under any circumstances. It is even more impressive considering that, between 1969 and 1970, the caseload per judge remained constant while the total number of case appearances increased by 37 per cent.[71] A reduction in the time required for disposition is obviously more important in jail cases than in bail or parole cases, since the defendant's liberty is at stake. The significance of this reduction is further heightened by the fact that 29 and 26 per cent of the jail cases in 1969 and 1970, respectively, resulted in a dismissal or an acquittal at the Criminal Court level.[72]

2. *Bail and Parole Cases*

Under the all-purpose parts, there were very modest reductions in both the length of time and the number of appearances required to dispose of bail and parole cases. For the cases that were disposed of by the cutoff date,[73] there was a 7 per cent decline in both the average number of appearances (from 2.62 to 2.44) and days (from 45.8 to 42.4)

of appearances per case relate only to appearances in the Criminal Court. If a felony case is transferred to the Supreme Court, the defendant faces a prospect of much longer delays than in the Criminal Court. *See* note 30 *supra*. There is a strong incentive for a defendant accused of a felony and detained in jail to accept an offer of a plea of guilty to a reduced charge, since, if his case is sent to the Supreme Court, he may spend as much time in jail awaiting trial at the Supreme Court level as he is likely to receive as a sentence in the Criminal Court if he pleads guilty to the reduced charge. This is a good illustration of the phenomenon of the relocated bottleneck mentioned in note 32 *supra*, and is also an illustration of how a reform which is beneficial in itself may have harmful side effects.

67. Although the time required from the first post-arraignment appearance through disposition is used throughout this study as an indication of the efficiency of the all-purpose parts, it is important to recall that the judge in Part 1A handled some post-arraignment appearances, primarily motions to dismiss or suppress. *See* p. 1650 *supra*. However, since, during the period in which the data was collected, the calendar for 1A only contained between 3 and 6 per cent of the post-arraignment appearances scheduled on any day, the figures for the number of days from the first post-arraignment appearance are a fairly accurate measure of the work done in the all-purpose Parts 1B, 1C and 1D.

68. *See* Appendix, Table 5A.

69. The number of appearances includes appearances for arraignment and sentencing. *See* note 45 *supra*.

70. *See* Appendix, Table 5A.

71. *See* p. 1654 *supra*.

72. *See* Appendix, Table 6, Section IIE.

73. There was a cutoff date for each year beyond which cases were not followed. *See* note 45 *supra*. While all jail cases were disposed of by the cutoff date, slightly less than half the bail and parole cases each year were disposed of by that date. *See* Appendix, Table 4.

required for case disposition.[74] The average number of days between appearances increased slightly, from 28.2 to 29.4.[75] Among "undisposed" cases,[76] there was a 5 per cent decline in the number of appearances, and a 3.4 per cent decline in the number of days, required for case disposition. On the whole, while there was some change for the better among the bail and parole cases, it was of small magnitude.

A greater improvement was achieved in the number of days per case commencing with the first post-arraignment appearance, when cases usually entered an all-purpose part. The number of days required fell 30 per cent for disposed cases (from 32.8 to 23.0) and 16.6 per cent for all cases.[77]

D. *Percentage of Appearances Resulting in Disposition*

A correlative of the decrease in the number of appearances per case is an increase in the proportion of appearances resulting in disposition. Under the all-purpose parts, the proportion of all case appearances that resulted in dispositions rose from 26 per cent to 31 per cent.[78] Subdivision of these figures into arraignment and post-arraignment appearances reveals that the traditional system actually disposed of a higher percentage of cases at arraignment (27 per cent) than did the all-purpose

74. *See* Appendix, Table 5B.

75. *See* Appendix, Table 5B. The fact that the inter-appearance time rose while both the number of appearances and the number of days per case fell may be explained mathematically as follows: The inter-appearance time (average number of days between appearances) equals the average number of days per case divided by the average number of appearances per case *less one*. The latter figure is used because there is necessarily one less inter-appearance period than there are appearances, there being no time interval to compute for the first appearance. The relationship may be expressed by the following formula:

$$\text{Average number of days between appearances} = \frac{\text{Average number of days per case}}{\text{Average number of appearances per case minus 1}}$$

Thus, if the numerator of the fraction (the average number of days per case) declines at a slower rate than the denominator (the average number of appearances per case minus one), the value of the fraction (the average inter-appearance time) will increase. In this study, although the average number of appearances per case declined at about the same 7 per cent rate as the average number of days, the average number of appearances *minus one* decreased by 11 per cent (1.62 to 1.44). Hence, the average inter-appearance time rose slightly.

76. "Undisposed cases" are cases that were not disposed of by the cutoff date for each year. Disposition figures for these cases are computed by assuming that the cases will be disposed of at the next scheduled appearance after the cutoff date. *See* note 45 *supra* and Appendix, Table 5C.

77. *See* Appendix, Tables 5B and 5D. The figure for "all cases" declined from 68.8 days to 57.4 days, computed on the assumption that the next scheduled appearance for undisposed cases would be the last appearance; *see* notes 76 and 45 *supra*. This is admittedly an underestimate but is adequate for providing comparative figures. *See* note 45 *supra*.

78. *See* Appendix, Table 3. In 1969, there were 400 dispositions and 1524 case appearances; in 1970, there were 651 dispositions and 2084 appearances.

parts system (21 per cent).[79] This change is probably attributable to the increased percentage of felony cases, which are rarely disposed of at arraignment.[80] The proportion of post-arraignment appearances resulting in disposition rose from 26 per cent in 1969 to 34 per cent in 1970,[81] a reflection of the effectiveness of the new system in reducing the number of appearances after cases reached the all-purpose parts.

E. *Percentage of Adjournments Without Other Action*

The percentage of post-arraignment appearances that are adjourned without substantive action being taken is yet another indicator of a system's ability to utilize manpower efficiently.[82] The proportion of appearances resulting in such adjournments dropped from 51 per cent in 1969 to 45 per cent in 1970.[83] Expressed differently, the all-purpose parts yielded 11 per cent fewer adjournments without other action per judge per day.[84] The reduction in the number of adjournments without other action is obviously an important cause of the decline in the number of appearances and days required for case disposition under the all-purpose parts.[85]

F. *Frequency of Preliminary Hearings*

When the all-purpose parts were instituted, there was some speculation that delays might be increased through a greater incidence of pre-

79. *See* Appendix, Table 3. 82 out of 308 cases were disposed of at arraignment in 1969, and 81 out of 385 in 1970.

80. Another possible cause of the lower proportion of cases disposed of at arraignment in 1970 is the 25 per cent increase in arraignments which, all other things being equal, would have left the arraignment judge with less time for and thus less chance to dispose of each case. But this factor is hard to evaluate for two reasons. First, there were two judges performing arraignments in 1969 as against only one judge on most days in 1970. In each year, the arraignment judge performed other tasks as well—in 1969, calendaring and some preliminary hearings, and in 1970, some pre-trial motions. It was not possible to determine how much time was spent each year on arraignments as opposed to other functions. Second, the arraignment judge in 1970 arraigned youths as well as non-youths. Since information on the relative amounts of time spent on non-youth as against youth arraignments was also not available, it was impossible to determine the effect of the increase in arraignments on the proportion of non-youth arraignments resulting in dispositions.

81. *See* Appendix, Table 3. In 1969, there were 318 dispositions at 1216 post-arraignment appearances, and in 1970, 570 dispositions at 1699 appearances.

82. Post-arraignment appearances are taken as the base figure since arraignment appearances are never considered to be adjourned "without other action"—the arraignment itself has taken place.

83. *See* Appendix, Table 3.

84. There were 20.9 adjournments without other action per judge per day in 1969 (626 ÷ 30.0) and 18.6 in 1970 (767 ÷ 41.2). *See* Appendix, Tables 2 and 3, and note 50 *supra*.

85. Even the improved percentages under the new system represent a depressingly large number of aborted appearances. It is not known how this number compares with those in other court systems, but it may not be atypical. *Cf.* Banfield & Anderson, *Continuances in the Cook County Criminal Courts*, 35 U. CHI. L. REV. 259 (1968).

liminary hearings. Although the total number of hearings increased,[86] the percentage rise (52 per cent) was much smaller than the percentage rise in felony cases (85 per cent), in which preliminary hearings are most common.[87] Although both the percentage of post-arraignment appearances involving hearings[88] and the number of hearings per judge per day[89] rose slightly, these changes tend also to reflect the decrease in the number of appearances involving no substantive action. The greater proportion of preliminary hearings in the work of the court is a sign of the system's ability to eliminate non-productive appearances and to cope with a larger caseload in which the proportion of complex cases was increasing.

G. *Percentage of Cases Disposed of Within the Sample Period*

For the purpose of comparing the disposition rates of the two systems, all cases still pending in the Criminal Court as of the cutoff date were considered to be undisposed of.[90] The data reveal two significant changes. First, the percentage of felonies disposed of within the allotted time period fell from 62 per cent in 1969 to 53 per cent in 1970.[91] This

86. The number of hearings increased from 82 to 125 in the ten-day samples. *See* Appendix, Table 3. These figures represent the total number of preliminary hearings held, not the total number of defendants who had hearings. For this particular variable, the number of hearings is a more accurate index of trends, since the significant factor is the courtroom time involved, and hearings for cases involving more than one defendant generally do not take much longer than hearings for one defendant.

87. Statistical evidence of the greater concentration of preliminary hearings in felony cases is provided by the data showing that felony cases have an average of approximately one more appearance in the Criminal Court than misdemeanor or violation cases. *See* Appendix, Table 5D and note 52 *supra*. A preliminary hearing is especially important to a defendant accused of a felony, since, if he waives the hearing, his only alternatives (assuming the case is not dismissed) are to plead guilty or to wait for the case to be transferred to the Supreme Court, N.Y. CRIM. PROC. LAW § 180.30 (McKinney 1970), where long delays are common; *see* note 30 *supra*. An accused misdemeanant, however, is immediately scheduled for trial in the Criminal Court if he waives the preliminary hearing and his case is not otherwise terminated.

88. In 1969, there were 82 hearings and 1216 post-arraignment appearances, so that a hearing occurred in 6.7 per cent of the appearances. In 1970, there were 125 hearings and 1699 post-arraignment appearances, for an incidence of hearings in 7.4 per cent of the appearances, *see* Appendix, Table 3. Post-arraignment appearances are used as the base figure since preliminary hearings always occurred after arraignment. Since co-defendants usually appear together, a comparison of the number of hearings with the number of appearances is a valid indicator of court time spent on hearings. However, since the presence of each co-defendant was counted as one appearance in this study, *see* note 46 *supra*, any change in the proportion of multiple-defendant cases between the two years would affect the validity of the above comparison.

89. The number of hearings per judge per day was 2.7 (82 ÷ 30.0) in 1969 and 3.0 (125 ÷ 41.2) in 1970. *See* Appendix, Tables 2 and 3, and note 50 *supra*.

90. *See* notes 45, 73 and 76 *supra*. The average length of time allowed for disposition of cases each year under the cutoff date was 117 days. *See* note 45 *supra*.

91. *See* Appendix, Table 4.

decline may be explained, at least in part, by a drop in the proportion of jail cases,[92] which take less time for disposition on the average than bail or parole cases.[93] Second, the percentage of violations disposed of by the cutoff date increased markedly, from 39 per cent in 1969 to 58 per cent in 1970.[94]

These two changes reflect a much more uniform pattern of disposition among all offense categories under the all-purpose parts as compared with the previous system of organization. The percentages of felonies, misdemeanors, and violations disposed of by the cutoff date were 53 per cent, 55 per cent, and 58 per cent, respectively, in 1970, and 62 percent, 55 per cent, and 39 per cent, respectively, in 1969.[95] One possible explanation for this increased uniformity is that violations may have suffered the greatest delays from the inefficiencies of the old system. Judges may have been willing to adjourn violation cases for longer periods of time, because they felt that the defendants in those cases constituted less of a threat to society and thus could remain free on bail or parole longer than misdemeanor or felony defendants. As the all-purpose parts eliminated some of the system's inefficiencies, violation cases may have come to be treated in the same manner as other offenses. In addition, there was an apparent change of attitude on the part of judges after the all-purpose parts system was introduced. It was no longer acceptable to delay petty cases—all appearances were to be treated alike, except for those in jail cases, which were to be expedited.[96]

92. The proportion of jail cases, already low in comparison with the other boroughs of the city, dropped from 11 per cent in 1969 to 6 per cent in 1970; *see* Appendix, Table 4. One explanation for this decline is that the number of persons detained in jail increased at a much slower rate than the number of felony cases, in which bail is likely to be high and, therefore, difficult for defendants to post. The number of persons confined in both the Queens House of Detention and the Branch Queens Jail in Kew Gardens rose only 15 per cent, from 996 on July 1, 1969 to 1148 on July 1, 1970. Although these figures include some persons already convicted who were sentenced to short prison terms, the total jail populations are the relevant figures, since the judges making the bail determinations would have been concerned with the general overcrowding of detention facilities regardless of the status of the persons detained. While the jail population rose 15 per cent, the number of felony defendants increased 85 per cent, *see* p. 1654 *supra*. The *percentage* of felony defendants detained in jail should therefore have fallen to 115 ÷ 185, or 62 per cent of the 1969 percentage. Since all jail cases in this study were felonies, the proportion of *all* cases (not just felonies) that are jail cases should also have declined by about the same amount, since the 1969 and 1970 samples contained nearly the same number of felony cases. In fact, the proportion of jail cases declined to 31 ÷ 55, or 56 per cent, of the 1969 population. It would appear, therefore, that the judges were responding to the overcrowding of detention facilities by lowering bail in felony cases to a level that more defendants could meet.

93. *See* Appendix, Tables 5A and 5B. Jail cases required an average of 30.5 days in 1969 and 11.4 days in 1970 to reach disposition, compared with 45.8 days in 1969 and 42.4 days in 1970 for bail and parole cases disposed of within the sample period.

94. *See* Appendix, Table 4.

95. *Id.*

96. For a more detailed discussion of the change in judicial attitude under the all-purpose parts, *see* pp. 1663-64 *infra*.

H. *Discussion*

Five factors appear to explain the efficiency achievements of the all-purpose parts:

(1) Judges have greater knowledge of and familiarity with pending cases and do not have to re-educate themselves at each appearance. As a result, less time is spent reviewing prior actions and more time is used for further adjudication. Court participants interviewed[97] felt that under the traditional system, defense counsel would sometimes seek delays by repeating motions and requests for adjournment before different judges at successive appearances. Under the all-purpose parts system, judges are more likely to be familiar with previous motions and to know why previous adjournments were granted, even if there is no notation in the court papers.

(2) Similarly, defense attorneys have greater knowledge of the cases they handle. Continuity of counsel operates to reduce delays, both because less time is spent in examining the record and because the defense team has a personal interest in arguing and completing each case.

(3) The continuous interaction among the Legal Aid attorneys, prosecutors, and judge assigned to an all-purpose part appears to encourage a relatively informal and probably more efficient working relationship than was likely to develop under the traditional organization.

(4) The diminished likelihood of adjournments due to the non-appearance of a complainant or witness helps speed the processing of cases. Since all post-arraignment appearances take place in the same courtroom before the same judge, there is a reduction in the confusion and consequent discouragement of witnesses, who formerly had to find their way to different rooms for successive appearances.

(5) Finally, the all-purpose parts appear to have instilled a greater judicial consciousness of the need for rapid case dispositions, which has resulted in a changed attitude toward the granting of adjournments. Under the previous system, a judge knew that if a case was adjourned it would come before another judge at the next appearance. There was thus an incentive for judges to adjourn cases that appeared to be particularly complex or controversial. Since a case now remains with one judge

97. The author interviewed in depth two of the four Queens Criminal Court judges in the all-purpose parts, two Assistant District Attorneys, three Legal Aid Attorneys from different parts, the President, Vice-President, Attorney-in-Chief, and Attorney-in-Charge in Queens of the Legal Aid Society, and the Chief Clerk of the Queens Criminal Court. Brief informal conversations were also held with two other prosecutors, five other Legal Aid attorneys and all the deputy clerks. Because most of the persons interviewed requested anonymity, most references to subjective opinions and impressions are not given attribution.

until disposition, there is no way to avoid "hard" cases and no value in delay.

Coupled with this increased reluctance to grant adjournments is a greater tendency to mark adjournments "final" against one or both parties. If a case is marked "final against the People" and the District Attorney is not prepared to proceed at the next appearance, the case is often dismissed. If a case is marked "final against the defendant" and the defense counsel does not appear, a judge may raise the defendant's bail and detain him for a few hours to secure the speedy appearance of his attorney.[98] Although marking cases "final" is an administrative practice independent of the all-purpose parts operation, it appears to have been used more frequently because of the new judicial concern for rapid disposition engendered by the all-purpose parts.

In this connection, it is important to note the possibility that the efficiencies indicated by the data are attributable in some measure to a changed attitude in the Queens Criminal Court, an attitude prompted by the *fact* of a reform experiment, quite apart from the *nature* of that experiment. Judges, prosecutors, and Legal Aid attorneys were all aware that the new system was being closely watched by interested observers, and were probably committed to its "success." They might have been equally concerned about and dedicated to *any* reform. The only effective means of determining whether the increased efficiencies were caused by the aura of the reform or by its substance would be to conduct another study of the Queens Criminal Court after the all-purpose parts have been in operation for a few years.

Another possible explanation for the marked increase in dispositions is that the pre-existing backlog may have contained a large proportion of "deadwood"—cases which were effectively or nearly completed but which had not been formally disposed of. If this is true, the efficiencies described above are somewhat exaggerated, and one would expect the disposition rate of the all-purpose parts to decline somewhat after the backlog had been reduced. Again, the only means of determining whether the new-found efficiencies were a result of a "dead" backlog or speedier adjudication of "live" cases would be to compare the operation of the all-purpose parts in 1970 with their operation in subsequent years.[99]

98. One judge who used this procedure on occasion emphasized that it was intended not as a punitive measure but solely as a means of insuring compliance with the court's rulings.

99. A rough indication that the structural change, rather than the enthusiasm of reform or the excess of inactive cases, was responsible for the increased efficiency is provided

IV. Fairness

Notwithstanding the pronounced gains in efficiency noted above, the all-purpose parts would be subject to severe criticism if those gains were obtained at the expense of fairness or quality. While it is beyond the scope of this Note to define exhaustively "fairness," the term is here used to describe careful, unbiased, and individualized adjudication and the minimization of injury to defendants.

It is clear that some changes in the efficiency of adjudication directly affect its fairness. It is obviously fairer to defendants detained in jail to dispose of their cases in 11 rather than 30 days. Similarly, a reduction in the time needed to process bail or parole cases diminishes the period of wrongful accusation or of uncertainty as to sentencing. The decrease in the number of appearances required per case is fairer to attorneys, defendants and witnesses, for whom an appearance requires time and energy and frequently a loss of pay as well. Data on the outcomes of final dispositions, which might provide some quantitative basis for evaluating the fairness of the two systems, are inconclusive. The two samples reveal conflicting trends[100] on all but one point—a decline in the proportion of cases transferred to the Supreme Court from 20 to 15.5 per cent.[101] It is impossible to determine whether that change was a result of closer scrutiny of cases alleged to be serious or of unfair pressure by judges to settle felony cases on the basis of a guilty plea to lesser charges.

There is, in addition, an important intuitive indication of increased fairness under the all-purpose parts. The relative continuity of defense

by the figures for total docket backlog. On January 1, 1970, just before the all-purpose parts system went into effect, there was a total of 9100 docket numbers pending in the Queens Criminal Court. On January 1, 1971, almost one year after the new system went into effect, there were still 8400 docket numbers pending. But by October 1, 1971, after two more all-purpose parts had been added, *see* note 40 *supra*, the docket had shrunk to only 4700 pending cases. *See* note 59 *supra*. This decrease took place despite a continually growing caseload. Telephone conversation with Julian M. de la Rosa, Chief Clerk, Queens Criminal Court, October 7, 1971.

100. The proportion of cases dismissed or withdrawn rose in the cross-sectional sample from 37.5 to 46 per cent but fell in the case-flow sample from 44 to 41 per cent. On the other hand, the proportion of guilty pleas declined in the cross-sectional sample from 30 to 28 per cent while increasing in the case-flow sample from 27 to 34 per cent. *See* Appendix, Table 6, Sections I and IIA. Both samples were sufficiently large to be representative. None of the differences between the two samples explains the inconsistent patterns of change.

101. *See* Appendix, Table 6, Sections I and IIA. The case-flow sample reveals two other patterns which, though not directly relevant to this study, are worth noting. First, an average of 63 per cent of misdemeanor cases was dismissed or withdrawn while an average of only 32 per cent of felonies and 42 per cent of violations was similarly treated. Second, bail and parole cases were dismissed twice as often as jail cases—an average of 46 per cent as against 23 per cent—a startling confirmation of the common thesis that jailed defendants receive harsher treatment than those released pending disposition.

counsel, resulting from the permanent assignment of a Legal Aid team to each courtroom, would seem to improve defense representation. Attorneys familiar with their clients and cases can, presumably, prepare and argue more effectively than those who must spend much of their time reviewing the record.

A concededly unrepresentative,[102] though informative, set of interviews pointed to other evidence of fairness under the all-purpose parts system. The two judges interviewed stated that working on all aspects of cases presented them with a greater variety of problems, making the proceedings more interesting. Greater judicial attentiveness may result in more careful evaluation of issues and more individualized adjudication. Significantly, those courtroom participants interviewed did not believe that unfairness resulted from the new system.

Nevertheless, the unrepresentativeness of the interview sample leaves open the question of fairness, however defined. Several possible forms of unfairness may have been generated by the reform experiment, although the participants interviewed did not believe that these problems in fact resulted:

(1) The increased knowledge of and familiarity with cases may lead judges to form fixed opinions early in a case, or lead prosecutors to decide at an early stage on the appropriate "deal" for the case, thereby limiting the defendant's chances of persuading the court or striking a favorable bargain with the prosecutor.

(2) The more informal and regularized working relationships among Legal Aid attorneys, prosecutors, and judges may lead to a more subdued form of advocacy by defense counsel.

(3) The new concern for rapid dispositions may induce quick and relatively careless treatment of cases.

(4) Since one judge hears virtually every aspect of a case, defendants are unable to effectively "shop" for judges whom they believe to be sympathetic. They are similarly unable to avoid judges whom they believe to be harsh or biased.[103]

(5) Although the data in this study are inconclusive as to differences in the outcomes of dispositions, any multi-judge system with individual assignments will inevitably exhibit some differences in procedure and

102. *See* note 97 *supra*.

103. Insofar as there is a need to minimize the abuses of judicial discretion and achieve a degree of uniformity among dispositions, seemingly the best approach is not to sacrifice the advantages of the all-purpose parts by returning to a fragmented system of organization, but rather to take steps within the court to re-educate judges (as, for example, through sentencing conferences) or to control the consequences of abuse (through sentence review).

in legal rulings from judge to judge. Although such variations were not mentioned in the interviews since they did not affect Legal Aid teams which were permanently assigned to one judge's court, they may create substantial difficulties for private attorneys practicing before several judges. Such differences, apart from being a form of unfairness, will probably lead to an increase in interlocutory appeals and procedural appeals in general, increasing the burdens on appellate courts and delaying the progress of particular cases.[104]

V. Implications for Other Court Systems

The change in court organization examined by this study was a shift from a slightly segmented master calendar system with rapid rotation of lawyers and judges to a more consolidated, continuous-assignment individual calendar system. The success of the all-purpose parts in the Queens Criminal Court would seem to augur well for the individual calendar systems now adopted by many federal district courts.[105] But two caveats must be noted. First, the New York City Criminal Court was somewhat specialized from the outset, by virtue of its limited jurisdiction.[106] The gains of case-type specialization through use of a master calendar, which were insignificant in the Criminal Court, may be far more substantial in courts of more general jurisdiction. Second, because the distinguishing characteristic of the previous system in Queens was the rapid rotation of judges among the different parts rather than the use of functionally specialized parts,[107] the implications of this study are somewhat limited. All that can be said with certainty is that a system using minimal segmentation (arraignments separated from post-arraignment appearances) and continuous assignments is more efficient than a slightly more segmented system with rapidly changing assignments. Since the rapid rotation deprived the New York system of many of the benefits

104. As this problem develops in New York City and other individual calendar jurisdictions, legislatures and courts will have to consider new procedures, such as trial court rules, en banc hearings in trial courts, and trial judge conferences, to insure uniformity of procedure.

105. The increased rapidity of dispositions available through the use of the all-purpose parts may prove particularly important where, as in New York State, court rules are promulgated which require dismissal of a case not brought to trial within six months or release of a jailed defendant not brought to trial within ninety days, unless the delays are at the request of the defense. Part 29 of the Rules of the Administrative Board of the New York State Judicial Conference, 22 N.Y.C.R.R. §§ 29.1-29.7 (April 30, 1971), effective May 1, 1972.

106. *See* pp. 1639-40 *supra*.

107. The old Part 2A actually handled most preliminary hearings and pre-trial motions and all one-judge trials, a substantial part of the entire litigation process. *See* pp. 1641-43, 1650 *supra*.

of specialization that might accrue to a functionally specialized master calendar system,[108] this Note makes no findings regarding the possible efficiencies of such a system.

Yet it would seem that any system which fragments the processing of individual cases will necessarily involve some inefficiency because of the re-education of court participants required at each stage. The few figures available on the new federal individual calendar systems support this conclusion. In a pilot project in the Southern District of New York, individual calendar judges disposed of 42 per cent more cases than master calendar judges during the same time period with comparable caseloads.[109] In Philadelphia, the judges on an individual calendar system disposed of 73 per cent of their cases over a two-month period, while their colleagues using a master calendar system disposed of only 11.7 per cent of their cases.[110] It thus appears that, in those districts, the efficiency gains derived from specialization of tasks were outweighed by the inefficiencies created by segmentation.

Any improvement in efficiency raises the question of relative costs. The all-purpose parts generated no additional budgetary expenditure. When the all-purpose parts were proposed, it was hoped that the team of Legal Aid attorneys assigned to each all-purpose part would be large enough to ensure continuity of personnel despite vacations, illness, and rotating assignments to Night Court.[111] It was estimated that to ensure the daily attendance of three attorneys in any part, a team of four would have to be assigned.[112] Such an arrangement clearly would have increased Legal Aid costs, since a larger staff would have been required.[113] These plans were never implemented, however.[114] Consequently, the Legal Aid Society has not experienced greater costs under the all-purpose parts. Furthermore, there was no increase in the

108. *See* note 18 *supra*.

109. N.Y.C. Bar Ass'n, *supra* note 3, at 4.

110. "The Federal Judicial Center," Address by Justice Tom Clark, American Judicature Society, August 13, 1969.

111. Prior to October 1971, night arraignment of Queens defendants took place in Brooklyn Night Court. *See* note 54 *supra*. Now Queens has its own Night Court. Because of the undesirability of the assignment, no attorneys are permanently assigned to Night Court duty. The attorneys assigned to the all-purpose parts must, therefore, take turns in staffing the Night Court.

112. *See* Legal Aid Society, Memorandum to Harry Bronstein, Bureau of the Budget of the City of New York, on Legal Aid Needs for All-Purpose Parts in the Criminal Court, April 17, 1970, reprinted in Legal Aid Society Brief, *supra* note 30, at 45a, 49a.

113. It obviously requires a larger staff to ensure *continuity* of personnel in several small units than to provide mere *adequacy* of personnel for the court as a whole.

114. The total number of Legal Aid Society attorneys has almost doubled in the last 18 months. This is a result of the increased caseload, not the new calendaring system. Telephone conversation with Caroline Davidson, Attorney-in-Charge, Queens Criminal Court, The Legal Aid Society, October 7, 1971.

number of clerks or administrative personnel working in the court. Although the prospect of increased efficiency at no increase in cost is attractive, it is important to note that the all-purpose parts did not achieve complete continuity of counsel.[115] Whether a somewhat larger expenditure for defense counsel, perhaps combined with a larger expenditure for purely administrative personnel, would have generated even greater efficiency gains is a matter of conjecture.[116]

Many other aspects of docket administration also bear on efficiency. An individual calendar, for example, may sacrifice some amount of efficiency if no single individual is in charge of each case for purposes of coordinating the appearances of all necessary participants.[117] Indeed, a study by the Institute for Court Management suggests that court control of the progress of cases is a more fundamental determinant of successful calendar management than the individual or master calendar structure of the court.[118] Moreover, an individual calendar system sacrifices efficiency if all calendaring and other administrative burdens are placed on judges.[119] Courts might well benefit from the inclusion of specialized court administrators or administrative judges given the power effectively to perform management functions.

115. Most all-purpose parts presently have a team of only two Legal Aid attorneys. When one goes on vacation or is assigned to Night Court, *see* note 111 *supra*, his partner takes over his cases or a temporary substitute is assigned to that part. Usually the regular attorney will personally contact his jailed defendants to ask them whether they prefer to have another attorney represent them or to adjourn the case until he returns. They are thus offered the unpleasant choice between longer jail stays and somewhat less informed counsel. Other defendants are not generally offered that choice—if their case comes up during that period, they are faced with a new, unfamiliar attorney.

116. When an all-purpose parts system was established in Manhattan, federal funds were made available to hire new clerks and other administrative personnel to help operate the calendaring part and monitor the system. The Chief Clerk in Queens cautioned against a comparison of the two systems because of the lack of extra personnel in Queens. Telephone conversation with Julian M. de la Rosa, Chief Clerk, Queens Criminal Court, October 7, 1971.

117. The Criminal Justice Coordinating Council in New York has recently proposed an "appearance control" project in which all participants—defendants, defense attorneys, police officers, and witnesses—would be contacted in advance of a court date to insure their joint appearance and thus increase the likelihood of substantive court action. In many other jurisdictions, this function is already performed by the prosecutor's or clerk's office. Interview with Professor Geoffrey Hazard, Yale Law School, October 7, 1971.

118. INSTITUTE FOR COURT MANAGEMENT, A COMPARISON OF CIVIL CALENDAR MANAGEMENT IN BOSTON, DETROIT AND MINNEAPOLIS 21-22, 25-27 (1971).

119. *See* note 44 *supra*.

Despite these limitations, use of an individual calendar system, such as the all-purpose parts, appears to offer the possibility of more efficient management of increasingly unmanageable dockets. Given the substantial gains achieved by a relatively minor administrative adjustment in the Queens Criminal Court, one can only wonder why the old system lasted as long as it did and hope that other jurisdictions will not require as serious a crisis before re-examining their court procedures and instituting improved methods of docket administration.

APPENDIX

TABLE 1

CHARACTERISTICS OF CROSS-SECTIONAL SAMPLES, 1969 AND 1970

	1969	1970
Sample size (number of case appearances on completed calendars)	1524	2084
New arraignments	308	385
Post-arraignment appearances	1216	1699
Number of days covered in sample	10	10
Total number of court days in period	65	65
Number of judges per day (average)[a]	3.00	4.12

a. Computed as outlined in note 50 *supra*.

TABLE 2

DISPOSITIONS PER JUDGE PER DAY
CROSS-SECTIONAL SAMPLES,
1969 and 1970

Part	*Dispositions*[a]	*Judge-Days*[b]	*Average Number of Dispositions Per Judge Per Day*
1969			
1A	100	10.0	10.0
1B	184	10.0	18.4
2A	116	10.0	11.6
Total	400	30.0	13.3
1970			
All-purpose parts combined (1B, 1C and 1D)	533	30.0	17.8
1A (arraignment part)	95	7.2	13.2
3-2	93	4.0	5.8
Total	651	41.2	15.8

a. The figures represent dispositions in adult cases only. *See* note 45 *supra*.
b. Computed as outlined in note 50 *supra*.

TABLE 3

DISTRIBUTION OF CASE APPEARANCES, CROSS-SECTIONAL SAMPLES, 1969 AND 1970

		New Arraignments				Post-Arraignment Appearances				All Appearances			
		1969		1970		1969		1970		1969		1970	
		#	%	#	%	#	%	#	%	#	%	#	%
New non-youth arraignments:	*A*[a]	82	27	152	39					82		152	
	B[a]	128	42	120	31					128		120	
	X[a]	98	32	113	29					98		113	
Total Arraignments		308	101[b]	385	100					308		385	
Final Dispositions:													
Dismissed or withdrawn		42		65		108	9	236	14	150		301	
Plea of guilty		27		8		92	8	177	10	119		185	
Tried and acquitted		0		0		22	2	34	2	22		34	
Tried and convicted		0		0		8	1	12	1	8		13	
Transferred to Supreme Court		0		0		81	7	107	6	81		107	
Transferred to Family Court and other dispositions		13		7		7	1	4	0	20		11	
Total Dispositions		82	27	81	21	318	26[b]	570	34[b]	400	26	651	31
Adjournments:													
Without other action						626	51	767	45	626		767	
After hearing or motion or for specified out-of-court action (obtain counsel, medical examination, etc.)						14	1	36	2	14		36	
Adjourned to Part 2B for trial						63	6	47	3	63		48	
Total Adjournments						703	58	850	50	703		851	

	#	%	#	%	#	%	#	%	#	%	%	#
Before court on bench warrant					27	2	40	2	27		40	
Sentences, fines, summonses, probation review, etc.					48	4	88	5	48		88	
Bench warrant issued	12		22		111	9	146	9	123		168	
Removed from calendar[c]	2		0		4	0	5	0	6		5	
Total Appearances	308	100	385	100	1216	101[b]	1699	99[b]	1524[c]	100	2084[c]	100
Preliminary Hearings[d]					82		125		82		125	

a. *A* docket numbers represent felonies and "printable" misdemeanors, *B* docket numbers represent all other misdemeanors, and *X* docket numbers represent violations. *See* notes 6 and 15 *supra*.

b. Percentages do not add up to the total because of rounding.

c. Cases are "removed from the calendar" as a result of the death of the complainant or defendant or other non-judicial termination of the case.

d. Preliminary hearings are listed separately because court appearances at which a hearing was held are listed in this Table under the category for the *final* action taken at that appearance, whether a dismissal, guilty plea, transfer to Supreme Court, or adjournment.

e. These figures represent the total number of appearances in the 1969 and 1970 samples. The totals of all the figures in the "All Appearances" column are, however, larger than 1524 and 2084, because those arraignments at which other action occurred—disposition, issuance of a bench warrant, or removal from the calendar—are included both under arraignments and under the relevant category for the other action.

TABLE 4
CHARACTERISTICS OF CASE-FLOW SAMPLES, 1969 AND 1970

	1969		1970	
	#	%	#	%
Sample size	500		497	
A cases[a]	236	47	243	49
B cases[a]	117	23	117	24
X cases[a]	147	29	137	28
		99[b]		101[b]
Jail cases[c]	55	11	31	6
Bail and parole cases[c]	455	89	466	94
		100		100
Number and percentage of cases disposed of by the cutoff date[d]	268	54	273	55
A cases	147	62[e]	130	53[e]
B cases	64	55[e]	64	55[e]
X cases	57	39[e]	79	58[e]
Jail cases	55	100[e]	31	100[e]
Bail and parole cases	213	48[e]	242	49[e]
Number and percentage of cases with unexecuted bench warrant as of cutoff date	46	9	54	11
Number and percentage of cases disposed of at arraignment	56	11	64	13
A cases	7	3[e]	5	2[e]
B cases	26	22[e]	26	22[e]
X cases	23	16[e]	33	24[e]
Jail cases	1	2[e]	1	3[e]
Bail and parole cases	55	12[e]	63	14[e]

a. *A* cases represent felonies and "printable" misdemeanors, *B* cases represent all other misdemeanors, and *X* cases represent violations. *See* notes 6 and 15 *supra.*
b. Percentages do not add up to 100 because of rounding.
c. For definitions of "jail" and "parole" cases, see note 46 *supra.*
d. For an explanation of the "cutoff date," see note 45 *supra.*
e. These percentages represent the proportion *of that category of cases,* not of all cases. *E.g.,* 62 per cent of the *A* cases in the 1969 sample were disposed of by the cutoff date, not 62 per cent of all cases.

TABLE 5

COMPARISON OF CASE HISTORIES, CASE-FLOW SAMPLES, 1969 AND 1970

	1969	1970
A. JAIL CASES (ALL DISPOSED)		
Av. no. of appearances per case[a]	3.95	3.19
Av. no. of days per case	30.5	11.4
Av. no. of days—first post-arraignment appearance to sentencing	21.8	7.5
Av. no. of days between appearances	10.4	5.2
B. BAIL AND PAROLE CASES—DISPOSED[b]		
Av. no. of appearances per case:[a] All cases	2.62	2.44
A cases[c]	3.35	3.16
B cases[c]	2.00	2.03
X cases[c]	2.04	1.86
Av. no. of days per case: All cases	45.8	42.4
A cases	52.4	54.0
B cases	43.6	34.5
X cases	36.8	33.9
Av. no. of days—first post-arraignment appearance to sentencing: All cases	32.8	23.0
A cases	38.1	28.1
B cases	25.5	18.4
X cases	25.7	16.3
Av. no. of days between appearances: All cases	28.2	29.4
A cases	22.3	25.0
B cases	43.6	33.4
X cases	35.5	39.4
C. BAIL AND PAROLE CASES—UNDISPOSED[b,d]		
Av. no. of appearances per case[a]—All cases	3.81	3.62
A cases	4.57	3.94
B cases	3.51	3.36
X cases	3.26	3.12
Av. no. of days per case—All cases	150.9	145.8
A cases	147.7	144.2
B cases	154.1	140.8
X cases	152.3	153.2
Av. no. of days—first post-arraignment appearance to sentencing—All cases	99.4	93.5
A cases	118.1	101.6
B cases	94.6	93.2
X cases	84.9	76.2
D. BAIL AND PAROLE CASES—DISPOSED AND UNDISPOSED COMBINED[b,d]		
Av. no. of appearances per case[a]—All cases	3.18	2.93
A cases	3.86	3.54
B cases	2.60	2.49
X cases	2.74	2.30

TABLE 5 (Continued)

	1969	1970
Av. no. of days per case: All cases	94.8	85.1
A cases	92.3	97.7
B cases	87.1	71.0
X cases	103.7	76.0
Av. no. of days—first post-arraignment appearance to sentencing: All cases	68.8	57.4
A cases	72.8	64.4
B cases	62.4	53.7
X cases	67.2	45.2
E. ALL DISPOSED CASES[b]—JAIL, BAIL AND PAROLE		
Av. no. of appearances per case[a]	2.90	2.53
Av. no. of days per case	42.7	38.8
Av. no. of days—first post-arraignment appearance to sentencing	30.0	20.8
Av. no. of days between appearance	22.5	25.4

a. Figures for the average number of appearances per case include arraignments and appearances for sentencing or payment of fines. *See* notes 45 and 69 *supra*.

b. The cutoff dates used in determining disposition were August 11, 1969 and August 10, 1970. The cases not disposed of by the cutoff date in 1969 required an average of 6.11 appearances for actual disposition. Ten of those cases not disposed of in 1969 were *still* not disposed of by the cutoff date in 1970. By that time, those cases had averaged 11.80 appearances.

c. *A* cases represent felonies and "printable" misdemeanors, *B* cases represent all other misdemeanors, and *X* cases represent violations. *See* notes 6 and 15 *supra*.

d. Figures for undisposed cases include the next scheduled appearance. *See* note 45 *supra*.

TABLE 6

COMPARISON OF FINAL DISPOSITIONS, 1969 AND 1970

I. Cross-Sectional Samples	1969		1970	
	#	%	#	%
Dismissed or withdrawn	150	37.5	301	46
Plea of guilty	119	30	185	28
Tried and acquitted	22	5.5	34	5
Tried and convicted	8	2	13	2
Transferred to Supreme Court	81	20	107	16
Transferred to Family Court and other dispositions	20	5	11	2
Total Final Dispositions	400	100	651	99[a]

TABLE 6 (Continued)

	II. Case-Flow Samples			
	1969		1970	
	#	%	#	%
A. ALL DISPOSED CASES: JAIL, BAIL AND PAROLE				
Dismissed or withdrawn	114	44	112	41
Plea of guilty	71	27	92	34
Tried and acquitted	10	4	13	5
Tried and convicted	3	1	4	1
Transferred to Supreme Court	51	20	40	15
Transferred to Family Court and other dispositions	11	4	13	5
Total Final Dispositions[b]	260	100	274	101[a]
B. ALL *A* CASES[c]				
Dismissed or withdrawn	43	30	46	35
Plea of guilty	35	25	36	28
Tried and acquitted	6	4	3	2
Tried and convicted	1	1	1	1
Transferred to Supreme Court	51	36	40	31
Transferred to Family Court and other dispositions	6	4	4	3
Total Final Dispositions[b]	142	100	130	100
C. ALL *B* CASES[c]				
Dismissed or withdrawn	47	75	33	52
Plea of guilty	12	19	24	37.5
Tried and acquitted	2	3	3	5
Tried and convicted	2	3	2	3
Transferred to Supreme Court	0	0	0	0
Transferred to Family Court and other dispositions	0	0	2	3
Total Final Dispositions[b]	63	100	64	100.5[a]
D. ALL *X* CASES[c]				
Dismissed or withdrawn	24	44	33	41
Plea of guilty	24	44	32	40
Tried and acquitted	2	4	7	9
Tried and convicted	0	0	1	1
Transferred to Supreme Court	0	0	0	0
Transferred to Family Court and other dispositions	5	9	7	9
Total Final Dispositions[b]	55	101[a]	80	100

TABLE 6 (Continued)

	1969		1970	
	#	%	#	%
E. ALL JAIL CASES[d]				
Dismissed or withdrawn	12	23	7	23
Plea of guilty	17	33	12	39
Tried and acquitted	3	6	1	3
Tried and convicted	1	2	0	0
Transferred to Supreme Court	15	29	11	35
Transferred to Family Court and other dispositions	4	8	0	0
Total Final Dispositions[b]	52	101[a]	31	100
F. ALL BAIL AND PAROLE CASES[d]				
Dismissed or withdrawn	102	49	105	43
Plea of guilty	54	26	80	33
Tried and acquitted	7	3	12	5
Tried and convicted	2	1	4	2
Transferred to Supreme Court	36	17	29	12
Transferred to Family Court and other dispositions	7	3	13	5
Total Final Dispositions[b]	208	99[a]	243	100

a. Percentages do not add up to 100 because of rounding.
b. The number of total final dispositions does not add up to the corresponding number in Table 4. This is because, for a handful of cases, the nature of the disposition was not indicated in the records. Furthermore, there were a few cases where the disposition, but not the sentence, had been recorded by the cutoff date. These cases are included here but are not included under "cases disposed of by the cutoff date" in Table 4. *See* note 45 *supra*.
c. *A* cases represent felonies and "printable" misdemeanors, *B* cases represent all other misdemeanors, and *X* cases represent violations. *See* notes 6 and 15 *supra*.
d. For definitions of "jail" and "parole" cases see note 46 *supra*.

TABLE 7
DISTRIBUTION OF DOCKET NUMBERS, MARCH 1-MAY 31

	1969		1970	
	#	%	#	%
A[a]	1622	39	2940	46
B[a]	1122	27	1343	21
X[a]	1431	34	2061	32
Total Non-youth (*A*, *B* and *X*)	4175	100	6344	99[b]
Y (youth)	1617		2085	

a. *A* docket numbers represent felonies and "printable" misdemeanors, *B* docket numbers represent all other misdemeanors, and *X* docket numbers represent violations. *See* notes 6 and 15 *supra*.
b. The percentages do not add up to 100 because of rounding.